

**ASSEMBLY BILL**

**No. 2701**

**Introduced by Assembly Member Runner**

February 20, 2004

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An act to amend Sections 13144 and 13152, and to repeal Section 12847.5 of, the Food and Agriculture Code, to amend Section 12812.2, and to repeal Section 12812.5 of, the Government Code, to amend Sections 25174, 25295, 25299.81, 25369, 39607.5, 39619.5, 40459, 41712, 41865, 43105.5, 44011, 44100, 44104.5, 57007, and 115910, and to repeal Sections 25178, 25244.11, 25395.32, 39604, 39702.5, 43032, 43101, and 59019 of, the Health and Safety Code, to amend Section 14315 of the Penal Code, to add Section 71045 to, to add Chapter 4 (commencing with Section 71069) to Part 2 of Division 34 of, and to repeal Sections 42889.1 and 42889.4 of, the Public Resources Code, to repeal Sections 7672, 7711 and 7712 of the Public Utilities Code, to amend Sections 13191, 13292, 13369, 13385, and 13399.39 of, and to repeal Sections 10782, 13192, and 13198 of, the Water Code, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 2701, as introduced, Runner. Environmental protection: reports.

Existing law requires the California Environmental Protection Agency, and its boards, departments, and offices to prepare and submit to the Governor and the Legislature various reports containing specified information on the implementation and effectiveness of certain programs, policies, and projects to ensure the protection of natural resources in the state.

This bill would require the agency, and its boards, departments, and offices to develop and implement a strategy to provide reports and other documentation, including guidance documents, fact sheets, and other publications and written materials, in the most efficient and environmentally sustainable manner possible using electronic data reporting techniques, including, among other things, the submission of reports by compact disc, the use of recycled materials, and the posting of reports and publications on the agency's Web site.

This bill would require all state agencies, to the extent feasible and consistent with this strategy, to use techniques and materials that are economically and environmentally preferable, as described.

The bill would revise and eliminate various existing reporting requirements for the agency and other state agencies.

(2) Existing law requires the Public Utilities Commission to adopt regulations by January 1, 1993, to reduce potential railroad hazards, including regulations concerning the transporting of hazardous or potentially hazardous commodities and railroad equipment and training standards. Existing law makes it a crime to knowingly fail to comply with the adopted regulations and that failure results in a rail accident or release of hazardous material, or creates a significant risk of accident or release of hazardous materials.

This bill would repeal the requirement that the commission adopt those regulations.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12847.5 of the Food and Agricultural  
2 Code is repealed.  
3 ~~12847.5.—(a) (1) By January 1, 2003, the Department of~~  
4 ~~Pesticide Regulation shall analyze the following issues and report~~  
5 ~~its findings to the Legislature:~~  
6 ~~(A) The ongoing funding needs for the department to allow it~~  
7 ~~to carry out its responsibilities under state statutes and regulations.~~  
8 ~~(B) The appropriate mix of general funds and special funds,~~  
9 ~~including the pesticide mill assessment, to support the~~  
10 ~~department's activities.~~

1 ~~(C) The appropriate rate of mill assessment on pesticide~~  
2 ~~products that are used primarily in agricultural production and the~~  
3 ~~appropriate rate for all other pesticide products.~~

4 ~~(D) Potential improvements in the efficiency of the~~  
5 ~~department's operations, including mechanisms to share workload~~  
6 ~~with the United States Environmental Protection Agency~~  
7 ~~associated with requests to register pesticides for use in California.~~

8 ~~(2) The purpose of the analysis and report shall be to~~  
9 ~~recommend a funding solution for the department that will~~  
10 ~~eliminate the need to reauthorize the mill assessment on pesticide~~  
11 ~~and consumer product sales every five years and that will preserve~~  
12 ~~the accountability of the department to the entities contributing to~~  
13 ~~the financing of the department.~~

14 ~~(b) (1) To assist the department in preparing the analysis and~~  
15 ~~report required under subdivision (a), the director shall convene a~~  
16 ~~subcommittee of the Pest Management Advisory Committee by~~  
17 ~~January 1, 2002, that shall include, but shall not be limited to, at~~  
18 ~~least two representatives from the following groups or agencies:~~

19 ~~(A) Department of Pesticide Regulation.~~

20 ~~(B) Environmental advocates.~~

21 ~~(C) Consumer product manufacturers.~~

22 ~~(D) Pesticide manufacturers.~~

23 ~~(E) Production agriculture.~~

24 ~~(F) Farm labor advocates.~~

25 ~~(G) Employee unions.~~

26 ~~(H) County agriculture commissioners.~~

27 ~~(I) Public health advocates.~~

28 ~~(J) Legislative staff from policy or fiscal committees.~~

29 ~~(2) The subcommittee shall be disbanded upon completion of~~  
30 ~~the report required in subdivision (a).~~

31 SEC. 2. Section 13144 of the Food and Agricultural Code is  
32 amended to read:

33 13144. ~~(a) Not later than December 1, 1986, the~~ *The*  
34 *department shall establish specific numerical values for water*  
35 *solubility, soil adsorption coefficient (Koc), hydrolysis, aerobic*  
36 *and anaerobic soil metabolism, and field dissipation. The values*  
37 *established by the department shall be at least equal to those*  
38 *established by the Environmental Protection Agency. The*  
39 *department may revise the numerical values when the department*  
40 *finds that the revision is necessary to protect the groundwater of*

1 the state. The numerical values established or revised by the  
2 department shall always be at least as stringent as the values being  
3 used by the Environmental Protection Agency at the time the  
4 values are established or revised by the department.

5 ~~(b) Not later than December 1, 1987, and annually thereafter,~~  
6 ~~the director shall report the following information to the~~  
7 ~~Legislature, the State Department of Health Services, and the~~  
8 ~~board, for each pesticide registered for agricultural use:~~

9 ~~(1) A list of each active ingredient, other specified ingredient,~~  
10 ~~or degradation product of an active ingredient of a pesticide for~~  
11 ~~which there is a groundwater protection data gap.~~

12 ~~(2) A list of each pesticide that contains an active ingredient,~~  
13 ~~other specified ingredients, or degradation product of an active~~  
14 ~~ingredient that is greater than one or more of the numerical values~~  
15 ~~established pursuant to subdivision (a), or is less than the~~  
16 ~~numerical value in the case of soil adsorption coefficient, in both~~  
17 ~~of the following categories:~~

18 ~~(A) Water solubility or soil adsorption coefficient (Koc).~~

19 ~~(B) Hydrolysis, aerobic soil metabolism, anaerobic soil~~  
20 ~~metabolism, or field dissipation.~~

21 ~~(3) For each pesticide listed pursuant to paragraph (2) for~~  
22 ~~which information is available, a list of the amount sold in~~  
23 ~~California during the most recent year for which sales information~~  
24 ~~is available and where and for what purpose the pesticide was used,~~  
25 ~~when this information is available in the pesticide use report.~~

26 ~~(c) The department shall determine, to the extent possible, the~~  
27 ~~toxicological significance of the degradation products and other~~  
28 ~~specified ingredients identified pursuant to paragraph (2) of~~  
29 ~~subdivision (b).~~

30 SEC. 3. Section 13152 of the Food and Agricultural Code is  
31 amended to read:

32 13152. (a) The director shall conduct ongoing soil and  
33 groundwater monitoring of any pesticide whose continued use is  
34 permitted pursuant to paragraph (3) of subdivision (d) of Section  
35 13150.

36 (b) Any pesticide monitored pursuant to this section that is  
37 determined, by review of monitoring data and any other relevant  
38 data, to pollute the groundwaters of the state two years after the  
39 director takes action pursuant to paragraph (3) of subdivision (d)  
40 of Section 13150 shall be canceled unless the director has

determined that the adverse health effects of the pesticide are not carcinogenic, mutagenic, teratogenic, or neurotoxic.

(c) The director shall maintain a statewide data base of wells sampled for pesticide active ingredients. All agencies shall submit to the director, in a timely manner, the results of any well sampling for pesticide active ingredients and the results of any well sampling that detect any pesticide active ingredients.

(d) Not later than June 30, 1986, the director, the State Department of Health Services, and the board shall jointly establish minimum requirements for well sampling that will ensure precise and accurate results. The requirements shall be distributed to all agencies that conduct well sampling. All well sampling conducted after December 1, 1986, shall meet the minimum requirements established pursuant to this subdivision.

~~(e) The director, in consultation with the State Department of Health Services and the board, shall report the following information to the Legislature, the State Department of Health Services, and the board on or before December 1, 1986, and annually thereafter:~~

~~(1) The number of wells sampled for pesticide active ingredients, the location of the wells from which the samples were taken, the well numbers, if available, and the agencies responsible for drawing and analyzing the samples.~~

~~(2) The number of well samples with detectable levels of pesticide active ingredients, the location of the wells from which the samples were taken, the well numbers, if available, and the agencies responsible for drawing and analyzing the samples.~~

~~(3) An analysis of the results of well sampling described in paragraphs (1) and (2), to determine the probable source of the residues. The analysis shall consider factors such as the physical and chemical characteristics of the pesticide, volume of use and method of application of the pesticide, irrigation practices related to use of the pesticide, and types of soil in areas where the pesticide is applied.~~

~~(4) Actions taken by the director and the board to prevent pesticides from migrating to groundwaters of the state.~~

SEC. 4. Section 12812.2 of the Government Code is amended to read:

12812.2. (a) One of the deputies to the Secretary for Environmental Protection authorized pursuant to Section 12812.1

1 shall be a deputy secretary for law enforcement and counsel, who,  
2 subject to the direction and supervision of the secretary, shall have  
3 the responsibility and authority to do all of the following:

4 (1) Develop a program to ensure that the boards, departments,  
5 offices, and other agencies that implement laws or regulations  
6 within the jurisdiction of the California Environmental Protection  
7 Agency take consistent, effective, and coordinated compliance  
8 and enforcement actions to protect public health and the  
9 environment. The program shall include training and  
10 cross-training of inspection and enforcement personnel of those  
11 boards, departments, offices, or other agencies to ensure  
12 consistent, effective, and coordinated enforcement.

13 (2) In consultation with the Attorney General, establish a  
14 cross-media enforcement unit to assist a board, department, office,  
15 or other agency that implements a law or regulation within the  
16 jurisdiction of the California Environmental Protection Agency, to  
17 investigate and prepare matters for enforcement action in order to  
18 protect public health and the environment. The unit may inspect  
19 and investigate a violation of a law or regulation within the  
20 jurisdiction of such board, department, office, or other agency,  
21 including a violation involving more than one environmental  
22 medium and a violation involving the jurisdiction of more than one  
23 such board, department, office, or agency. The unit shall exercise  
24 its authority consistent with the authority granted to the head of a  
25 department pursuant to Article 2 (commencing with Section  
26 11180) of Chapter 2 of Part 1.

27 (3) Refer a violation of a law or regulation within the  
28 jurisdiction of a board, department, office, or other agency that  
29 implements a law or regulation within the jurisdiction of the  
30 California Environmental Protection Agency to the Attorney  
31 General, a district attorney, or city attorney for the filing of a civil  
32 or criminal action.

33 (4) Exercise the authority granted pursuant to paragraph (3)  
34 only after providing notice to the board, department, office, or  
35 other agency unless the secretary determines that notice would  
36 compromise an investigation or enforcement action.

37 (b) Nothing in this section shall authorize the deputy secretary  
38 for law enforcement and counsel to duplicate, overlap,  
39 compromise, or otherwise interfere with an investigation or  
40 enforcement action undertaken by a board, department, office, or

1 other agency that implements a law or regulation subject to the  
2 jurisdiction of the California Environmental Protection Agency.

3 ~~(c) Notwithstanding Section 7550.5 of the Government Code,~~  
4 ~~the Secretary for Environmental Protection shall report annually~~  
5 ~~to the Governor and the Legislature on the implementation of this~~  
6 ~~section. The Secretary for Environmental Protection shall report~~  
7 ~~on a biennial basis, to the Governor and the Legislature, as~~  
8 ~~prescribed in Chapter 4 (commencing with Section 71069) of Part~~  
9 ~~2 of Division 34 of the Public Resources Code, on the~~  
10 ~~implementation of this section.~~

11 SEC. 5. Section 12812.5 of the Government Code is repealed.

12 ~~12812.5. (a) On or before March 1, 1994, the California~~  
13 ~~Environmental Protection Agency, using existing resources and in~~  
14 ~~consultation with other relevant agencies in state and local~~  
15 ~~government, shall do all of the following:~~

16 ~~(1) Establish an environmental technologies clearinghouse,~~  
17 ~~which shall include, but not be limited to, maintaining information~~  
18 ~~on California-based environmental technology companies and~~  
19 ~~information on funding sources for environmental technology~~  
20 ~~endeavors and making this information available to interested~~  
21 ~~parties.~~

22 ~~(2) Make available technical assistance within the California~~  
23 ~~Environmental Protection Agency to assist California-based~~  
24 ~~environmental technology companies to improve export~~  
25 ~~opportunities, and to enhance foreign buyers' awareness of, and~~  
26 ~~access to, environmental technologies and services offered by~~  
27 ~~California-based companies. The technical assistance may~~  
28 ~~include, but is not limited to, organizing and leading trade~~  
29 ~~missions, receiving reverse trade missions, referral services,~~  
30 ~~reviewing project opportunities, and notifying California-based~~  
31 ~~companies of export opportunities and trade shows.~~

32 ~~(3) Perform research studies and solicit technical advice to~~  
33 ~~identify international market opportunities for California-based~~  
34 ~~environmental technology companies.~~

35 ~~(4) Participate in federally and other non-state funded technical~~  
36 ~~exchange programs, when appropriate, to increase foreign buyers'~~  
37 ~~interest in California's environmental technologies.~~

38 ~~(5) Coordinate activities in state government, and with the~~  
39 ~~federal government and other countries' governments, to take~~  
40 ~~advantage of trade promotion and financial assistance~~



~~opportunities available to California-based environmental technology companies.~~

~~(b) The California Environmental Protection Agency shall report annually to the Legislature the status of the California Environmental Technology Program established pursuant to this section through the Environmental Report of the Governor as provided in Section 12805.5.~~

SEC. 6. Section 25174 of the Health and Safety Code is amended to read:

25174. (a) There is in the General Fund the Hazardous Waste Control Account, which shall be administered by the director. In addition to any other money that may be deposited in the Hazardous Waste Control Account, pursuant to statute, all of the following amounts shall be deposited in the account:

(1) The fees collected pursuant to Sections 25174.1, 25205.2, 25205.5, 25205.15, and 25205.16.

(2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for the oversight of corrective action taken under this chapter.

(3) Any interest earned upon the money deposited in the Hazardous Waste Control Account.

(4) Any money received from the federal government pursuant to the federal act.

(5) Any reimbursements for funds expended from the Hazardous Waste Control Account for services provided by the department pursuant to this chapter, including, but not limited to, the reimbursements required pursuant to Sections 25201.9 and 25205.7.

(b) The funds deposited in the Hazardous Waste Control Account may be appropriated by the Legislature, for expenditure as follows:

(1) To the department for the administration and implementation of this chapter.

(2) To the department for allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Sections 43051 and 43053 of the Revenue and Taxation Code.

(3) To the department for the costs of performance or review of analyses of past, present, or potential environmental public health effects related to toxic substances, including extremely hazardous



1 waste, as defined in Section 25115, and hazardous waste, as  
2 defined in Section 25117.

3 (4) (A) To the office of the Attorney General for the support  
4 of the Toxic Substance Enforcement Program in the office of the  
5 Attorney General, in carrying out the purposes of this chapter.

6 (B) Notwithstanding subdivision (c), expenditures for the  
7 purposes of this paragraph shall not be subject to an interagency  
8 or interdepartmental agreement.

9 (C) On or before October 1 of each year, the Attorney General  
10 shall report to the Legislature on the expenditure of any funds  
11 appropriated to the office of the Attorney General for the  
12 preceding fiscal year pursuant to this paragraph and subdivision  
13 (c) of Section 25173.6. The report shall include all of the  
14 following:

15 (i) A description of cases resolved by the office of the Attorney  
16 General through settlement or court order, including the monetary  
17 benefit to the department and the state.

18 (ii) A description of injunctions or other court orders benefiting  
19 the people of the state.

20 (iii) A description of any cases in which the Attorney General's  
21 Toxic Substance Enforcement Program is representing the  
22 department or the state against claims by defendants or responsible  
23 parties.

24 (iv) A description of other pending litigation handled by the  
25 Attorney General's Toxic Substance Enforcement Program.

26 (D) Nothing in subparagraph (C) shall require the Attorney  
27 General to report on any confidential or investigatory matter.

28 (5) To the department, on and after July 1, 1999, for  
29 administration and implementation of Chapter 6.11 (commencing  
30 with Section 25404).

31 (c) Except for the appropriation to the office of the Attorney  
32 General pursuant to paragraph (4) of subdivision (b), expenditures  
33 from the Hazardous Waste Control Account for support of state  
34 agencies other than the department shall, upon appropriation by  
35 the Legislature to the department, be subject to an interagency or  
36 interdepartmental agreement between the department and the state  
37 agency receiving the support.

38 ~~(d) The department shall, at the time of the release of the annual~~  
39 ~~Governor's Budget, describe the budgetary amounts proposed to~~  
40 ~~be allocated to the State Board of Equalization, as specified in~~

~~paragraph (2) of subdivision (b) and in paragraph (3) of subdivision (b) of Section 25173.6, for the upcoming fiscal year. With respect to expenditures for the purposes of paragraphs (1) and (3) of subdivision (b) and paragraphs (1) and (2) of subdivision (b) of Section 25173.6, the department shall also make available the budgetary amounts and allocations of staff resources of the department proposed for the following activities:~~

~~(1) The department shall identify, by permit type, the projected allocations of budgets and staff resources for hazardous waste facilities permits, including standardized permits, closure plans, and postclosure permits.~~

~~(2) The department shall identify, with regard to surveillance and enforcement activities, the projected allocations of budgets and staff resources for the following types of regulated facilities and activities:~~

~~(A) Hazardous waste facilities operating under a permit or grant of interim status issued by the department, and generator activities conducted at those facilities. This information shall be reported by permit type.~~

~~(B) Transporters.~~

~~(C) Response to complaints.~~

~~(3) The department shall identify the projected allocations of budgets and staff resources for both of the following activities:~~

~~(A) The registration of hazardous waste transporters.~~

~~(B) The operation and maintenance of the hazardous waste manifest system.~~

~~(4) The department shall identify, with regard to site mitigation and corrective action, the projected allocations of budgets and staff resources for the oversight and implementation of the following activities:~~

~~(A) Investigations and removal and remedial actions at military bases.~~

~~(B) Voluntary investigations and removal and remedial actions.~~

~~(C) State match and operation and maintenance costs, by site, at joint state and federally funded National Priority List Sites.~~

~~(D) Investigation, removal and remedial actions, and operation and maintenance at the Stringfellow Hazardous Waste Site.~~

~~(E) Investigation, removal and remedial actions, and operation and maintenance at the Casmalia Hazardous Waste Site.~~

~~(F) Investigations and removal and remedial actions at nonmilitary, responsible party lead National Priority List Sites.~~

~~(G) Preremedial activities under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).~~

~~(H) Investigations, removal and remedial actions, and operation and maintenance at state-only orphan sites.~~

~~(I) Investigations and removal and remedial actions at nonmilitary, non-National Priority List responsible party lead sites.~~

~~(J) Investigations, removal and remedial actions, and operation and maintenance at Expedited Remedial Action Program sites pursuant to Chapter 6.85 (commencing with Section 25396).~~

~~(K) Corrective actions at hazardous waste facilities.~~

~~(5) The department shall identify, with regard to the regulation of hazardous waste, the projected allocation of budgets and staff resources for the following activities:~~

~~(A) Determinations pertaining to the classification of hazardous wastes.~~

~~(B) Determinations for variances made pursuant to Section 25143.~~

~~(C) Other determinations and responses to public inquiries made by the department regarding the regulation of hazardous waste and hazardous substances.~~

~~(6) The department shall identify projected allocations of budgets and staff resources needed to do all of the following:~~

~~(A) Identify, remove, store, and dispose of, suspected hazardous substances or hazardous materials associated with the investigation of clandestine drug laboratories.~~

~~(B) Respond to emergencies pursuant to Section 25354.~~

~~(C) Create, support, maintain, and implement the railroad accident prevention and immediate deployment plan developed pursuant to Section 7718 of the Public Utilities Code.~~

~~(7) The department shall identify projected allocations of budgets and staff resources for the administration and implementation of the unified hazardous waste and hazardous materials regulatory program established pursuant to Chapter 6.11 (commencing with Section 25404).~~

~~(8) The department shall identify the total cumulative expenditures of the Regulatory Structure Update and Site~~

1 ~~Mitigation Update projects since their inception, and shall identify~~  
2 ~~the total projected allocations of budgets and staff resources that~~  
3 ~~are needed to continue these projects.~~

4 ~~(9) The department shall identify the total projected allocations~~  
5 ~~of budgets and staff resources that are necessary for all other~~  
6 ~~activities proposed to be conducted by the department.~~

7 ~~(e)–~~

8 (d) Notwithstanding this chapter, or Part 22 (commencing with  
9 Section 43001) of Division 2 of the Revenue and Taxation Code,  
10 for any fees, surcharges, fines, penalties, and funds which are  
11 required to be deposited into the Hazardous Waste Control  
12 Account or the Toxic Substances Control Account, the  
13 department, with the approval of the Secretary for Environmental  
14 Protection, may take any of the following actions:

15 (1) Assume responsibility for, or enter into a contract with a  
16 private party or with another public agency, other than the State  
17 Board of Equalization, for the collection of any fees, surcharges,  
18 fines, penalties and funds described in subdivision (a) or otherwise  
19 described in this chapter or Chapter 6.8 (commencing with Section  
20 25300), for deposit into the Hazardous Waste Control Account or  
21 the Toxic Substances Control Account.

22 (2) Administer, or by mutual agreement, contract with a private  
23 party or another public agency, for the making of those  
24 determinations and the performance of functions that would  
25 otherwise be the responsibility of the State Board of Equalization  
26 pursuant to this chapter, Chapter 6.8 (commencing with Section  
27 25300), or Part 22 (commencing with Section 43001) of Division  
28 2 of the Revenue and Taxation Code, if those activities and  
29 functions for which the State Board of Equalization would  
30 otherwise be responsible become the responsibility of the  
31 department or, by mutual agreement, the contractor selected by the  
32 department.

33 ~~(f)–~~

34 (e) If, pursuant to subdivision (e), the department, or a private  
35 party or another public agency, pursuant to a contract with the  
36 department, performs the determinations and functions that would  
37 otherwise be the responsibility of the State Board of Equalization,  
38 the department shall be responsible for ensuring that persons who  
39 are subject to the fees specified in subdivision (e) have equivalent  
40 rights to public notice and comment, and procedural and

1 substantive rights of appeal, as afforded by the procedures of the  
2 State Board of Equalization pursuant to Part 22 (commencing with  
3 Section 43001) of Division 2 of the Revenue and Taxation Code.  
4 Final responsibility for the administrative adjustment of fee rates  
5 and the administrative appeal of any fees or penalty assessments  
6 made pursuant to this section may only be assigned by the  
7 department to a public agency.

8 ~~(g)~~

9 (f) If, pursuant to subdivision (e), the department, or a private  
10 party or another public agency, pursuant to a contract with the  
11 department, performs the determinations and functions that would  
12 otherwise be the responsibility of the State Board of Equalization,  
13 the department shall have equivalent authority to make collections  
14 and enforce judgments as provided to the State Board of  
15 Equalization pursuant to Part 22 (commencing with Section  
16 43001) of Division 2 of the Revenue and Taxation Code. Unpaid  
17 amounts, including penalties and interest, shall be a perfected and  
18 enforceable state tax lien in accordance with Section 43413 of the  
19 Revenue and Taxation Code.

20 ~~(h)~~

21 (g) The department, with the concurrence of the Secretary for  
22 Environmental Protection, shall determine which administrative  
23 functions should be retained by the State Board of Equalization,  
24 administered by the department, or assigned to another public  
25 agency or private party pursuant to subdivisions (e), (f), and (g).

26 ~~(i)~~

27 (h) The department may adopt regulations to implement  
28 subdivisions (e) to (h), inclusive.

29 ~~(j)~~

30 (i) The Director of Finance, upon request of the director, may  
31 make a loan from the General Fund to the Hazardous Waste  
32 Control Account to meet cash needs. The loan shall be subject to  
33 the repayment provisions of Section 16351 of the Government  
34 Code and the interest provisions of Section 16314 of the  
35 Government Code.

36 ~~(k)~~

37 (j) The department shall establish, within the Hazardous Waste  
38 Control Account, a reserve of at least one million dollars  
39 (\$1,000,000) each year to ensure that all programs funded by the

1 Hazardous Waste Control Account will not be adversely affected  
2 by any revenue shortfalls.

3 ~~(l)–~~

4 (k) When the department prepares the annual report required by  
5 Section 10359 of the Public Contract Code, the department shall,  
6 in addition to providing the information required by that section,  
7 include all of the following information:

8 (1) The source of funding for each contract.

9 (2) The statutory authorization, if applicable, for each contract.

10 SEC. 7. Section 25178 of the Health and Safety Code is  
11 repealed.

12 ~~25178. On or before January 1 of each odd-numbered year,~~  
13 ~~the department shall prepare and submit to the Legislature a report~~  
14 ~~containing, but not limited to, the following:~~

15 ~~(a) The status of the regulatory and program developments~~  
16 ~~required pursuant to legislative mandates.~~

17 ~~(b) (1) The status of the hazardous waste facilities permit~~  
18 ~~program which shall include all of the following information:~~

19 ~~(A) A description of the final hazardous waste facilities permit~~  
20 ~~applications received.~~

21 ~~(B) The number of final hazardous waste facilities permits~~  
22 ~~issued to date.~~

23 ~~(C) The number of final hazardous waste facilities permits yet~~  
24 ~~to be issued.~~

25 ~~(D) A complete description of the reasons why the final~~  
26 ~~hazardous waste facilities permits yet to be issued have not been~~  
27 ~~issued.~~

28 ~~(2) For purposes of paragraph (1), “hazardous waste facility”~~  
29 ~~means a facility which uses a land disposal method, as defined in~~  
30 ~~subdivision (h) of Section 25179.3, and which disposes of wastes~~  
31 ~~regulated as hazardous waste pursuant to the federal act.~~

32 ~~(c) The status of the hazardous waste facilities siting program.~~

33 ~~(d) The status of the hazardous waste abandoned sites program.~~

34 ~~(e) A summary of enforcement actions taken by the department~~  
35 ~~pursuant to this chapter and any other actions relating to hazardous~~  
36 ~~waste management.~~

37 ~~(f) Summary data on annual quantities and types of hazardous~~  
38 ~~waste generated, transported, treated, stored, and disposed.~~

39 ~~(g) Summary data regarding onsite and offsite disposition of~~  
40 ~~hazardous waste.~~

1 ~~(h) Research activity initiated by the department.~~

2 ~~(i) Regulatory action by other agencies relating to hazardous~~  
3 ~~waste management.~~

4 ~~(j) A revised listing of recyclable materials showing any~~  
5 ~~additions or deletions to the list prepared pursuant to Section~~  
6 ~~25175 that have occurred since the last report.~~

7 ~~(k) Any other data considered pertinent by the department to~~  
8 ~~hazardous waste management.~~

9 ~~(l) The information specified in subdivision (c) of Section~~  
10 ~~25161, paragraph (4) of subdivision (a) of Section 25197.1,~~  
11 ~~subdivision (d) of Section 25354, and Sections 25334.7, 25354.5,~~  
12 ~~and 25356.5.~~

13 ~~(m) A status report on the cleanup of the McColl Hazardous~~  
14 ~~Waste Disposal Site in Orange County.~~

15 SEC. 8. Section 25244.11 of the Health and Safety Code is  
16 repealed.

17 ~~25244.11. The department shall, by January 1, 1988, and each~~  
18 ~~year thereafter, report to the Governor and the Legislature,~~  
19 ~~including the Chairpersons of the Senate Committee on~~  
20 ~~Appropriations, Assembly Committee on Ways and Means, Joint~~  
21 ~~Legislative Budget Committee, and Assembly Committee on~~  
22 ~~Economic Development and New Technologies, on the status,~~  
23 ~~funding, and results of all demonstration and research projects~~  
24 ~~awarded grants.~~

25 ~~This report shall include recommendations for legislation and~~  
26 ~~shall identify those state and federal economic and financial~~  
27 ~~incentives which can best accelerate and maximize the research,~~  
28 ~~development, and demonstration of hazardous waste reduction,~~  
29 ~~recycling, and treatment technologies.~~

30 SEC. 9. Section 25295 of the Health and Safety Code is  
31 amended to read:

32 25295. (a) (1) Any unauthorized release which escapes  
33 from the secondary containment, or from the primary  
34 containment, if no secondary containment exists, increases the  
35 hazard of fire or explosion, or causes any deterioration of the  
36 secondary containment of the underground tank system shall be  
37 reported by the owner or operator to the local agency designated  
38 pursuant to Section 25283 within 24 hours after the release has  
39 been detected or should have been detected. A full written report  
40 shall be transmitted by the owner or operator of the underground



1 tank system to the local agency within five working days of the  
2 occurrence of the release. The report shall describe the nature and  
3 volume of the unauthorized release, any corrective or remedial  
4 actions undertaken, and any further corrective or remedial actions,  
5 including investigative actions, which will be needed to clean up  
6 the unauthorized release and abate the effects of the release and a  
7 time schedule for implementing these actions.

8 (2) The local agency shall review the permit whenever there  
9 has been an unauthorized release or when it determines that the  
10 underground tank system is unsafe. In determining whether to  
11 modify or terminate the permit, the local agency shall consider the  
12 age of the tank, the methods of containment, the methods of  
13 monitoring, the feasibility of any required repairs, the  
14 concentration of the hazardous substances stored in the tank, the  
15 severity of potential unauthorized releases, and the suitability of  
16 any other long-term preventive measures which would meet the  
17 requirements of this chapter.

18 (b) In cooperation with the Office of Emergency Services, the  
19 board shall submit an annual statewide report by county, to the  
20 Legislature, *in accordance with the requirements of Chapter 4*  
21 *(commencing with Section 71069) of Part 2 of Division 34 of the*  
22 *Public Resources Code*, of all unauthorized releases, indicating for  
23 each unauthorized release the operator, the hazardous substance,  
24 the quantity of the unauthorized release, and the actions taken to  
25 abate the problem.

26 (c) The reporting requirements imposed by this section are in  
27 addition to any requirements which may be imposed by Sections  
28 13271 and 13272 of the Water Code.

29 SEC. 10. Section 25299.81 of the Health and Safety Code is  
30 amended to read:

31 25299.81. (a) Except as provided in subdivisions (b) and (c),  
32 this chapter shall remain in effect only until January 1, 2011, and  
33 as of that date is repealed, unless a later enacted statute, which is  
34 enacted before January 1, 2011, deletes or extends that date.

35 (b) Notwithstanding subdivision (a), Article 1 (commencing  
36 with Section 25299.10), Article 2 (commencing with Section  
37 25299.11), and Article 4 (commencing with Section 25299.36)  
38 shall not be repealed and shall remain in effect on January 1, 2011.

39 (c) The repeal of certain portions of this chapter does not  
40 terminate any of the following rights, obligations, or authorities,

1 or any provision necessary to carry out these rights and  
2 obligations:

3 (1) The filing and payment of claims against the fund,  
4 including the costs specified in subdivisions (c), (e), and (h) of  
5 Section 25299.51, and claims for commingled plumes, as  
6 specified in Article 11 (commencing with Section 25299.90), until  
7 the moneys in the fund are exhausted. Upon exhaustion of the  
8 fund, any remaining claims shall be invalid.

9 (2) The repayment of loans, outstanding as of January 1, 2011,  
10 due and payable to the board ~~under the terms of Chapter 8.5~~  
11 ~~(commencing with Section 15399.10) of Part 6.7 of Division 3 of~~  
12 ~~Title 2 of the Government Code.~~

13 (3) The recovery of moneys reimbursed to a claimant to which  
14 the claimant is not entitled, or the resolution of any cost recovery  
15 action.

16 (4) The collection of unpaid fees that are imposed pursuant to  
17 Article 5 (commencing with Section 25299.40), as that article read  
18 on December 31, 2010, or have become due before January 1,  
19 2011, including any interest or penalties that accrue before, on, or  
20 after January 1, 2011, associated with those unpaid fees.

21 (d) The board shall annually, on or before September 30,  
22 prepare and submit a report to the Legislature, *in accordance with*  
23 *the requirements of Chapter 4 (commencing with Section 71069)*  
24 *of Part of 2 of Division 34 of the Public Resources Code*, which  
25 describes the status of the fund ~~and sets forth recommendations for~~  
26 ~~legislative changes to improve the efficiency of the program~~  
27 ~~established pursuant to this chapter, with a special emphasis on~~  
28 ~~expediting environmental cleanup and the distribution of money~~  
29 ~~from the fund, including alternative methods for the distribution~~  
30 ~~of that money.~~

31 SEC. 11. Section 25369 of the Health and Safety Code is  
32 amended to read:

33 25369. The department shall establish an abandoned site  
34 program to survey counties where abandoned site surveys have not  
35 been completed. As part of the program, the department shall do  
36 all of the following:

37 (a) Develop protocols and procedures for conducting an  
38 abandoned site survey of rural unsurveyed counties. These  
39 protocols shall address all types of sites likely to be found in these  
40 counties, including, but not limited to, crop-duster airstrips,

1 abandoned mining operations, pesticide formulators and  
2 manufacturers, abandoned wells, oil exploration and extraction,  
3 wood treatment plants, land disposal sites, and scrap metal  
4 operations.

5 (b) Notify the California regional water quality control boards,  
6 the Department of Fish and Game, local health officers, county  
7 directors of environmental health, county agricultural  
8 commissioners, and state and federal land management agencies  
9 of the abandoned site program. Notifications shall consist of the  
10 following:

11 (1) Explanation of the abandoned site program.

12 (2) Description of the California Superfund Program,  
13 including the availability of state funds for cleaning up abandoned  
14 hazardous waste sites, and that discovery of a site does not impose  
15 liability for cleanup.

16 (3) Provide a copy of the program's protocols and procedures  
17 outlining sites the state is attempting to identify.

18 (4) Request that, as part of each respective agency's duties, it  
19 report to the state abandoned site program any suspected  
20 abandoned waste site.

21 (5) Request that each participating agency, as a part of its  
22 regular activities, notify the department of sites identified in  
23 writing at least quarterly.

24 (c) Prepare an inventory of suspected abandoned hazardous  
25 substance release sites.

26 (d) Contact the owners and occupants of suspected abandoned  
27 sites.

28 (e) Maintain individual records for each suspected abandoned  
29 site.

30 (f) Develop a methodology for screening sites identified.

31 (g) Conduct a field assessment of those sites which the  
32 screening procedures specified in subdivision (f) indicate require  
33 this assessment.

34 (h) Rank the assessed sites, in order of priority, as presenting a  
35 potential hazard to public health or the environment consistent  
36 with Section 25356 or regulations adopted pursuant to that section.

37 ~~(i) Report to the Legislature quarterly, on an update on the~~  
38 ~~progress of the abandoned sites survey, identifying which agencies~~  
39 ~~have identified and reported sites to the department, as well as~~

1 ~~which agencies have reported that they do not intend to participate~~  
2 ~~in the program.~~

3 SEC. 12. Section 25395.32 of the Health and Safety Code is  
4 repealed.

5 ~~25395.32. On or before January 10 of each year, the secretary~~  
6 ~~shall report to the Joint Legislative Budget Committee and to the~~  
7 ~~chairs of the appropriate policy committees of the Senate and the~~  
8 ~~Assembly, and shall post on the Internet web site of the agency, all~~  
9 ~~of the following:~~

10 ~~(a) The number and dollar amount of loans approved pursuant~~  
11 ~~to Section 25395.21, the number and dollar amount of those loans~~  
12 ~~that have been repaid, and, the number and dollar amount of those~~  
13 ~~loans that are in default.~~

14 ~~(b) The number and dollar amount of loans waived pursuant to~~  
15 ~~subdivision (f) of Section 25395.21.~~

16 ~~(c) The number and dollar amount of loans approved pursuant~~  
17 ~~to Section 25395.23, the number and dollar amount of those loans~~  
18 ~~that have been repaid, and the number and dollar amount of those~~  
19 ~~loans that are in default.~~

20 ~~(d) The number of preliminary endangerment assessments~~  
21 ~~completed pursuant to agreements entered into under this article.~~

22 ~~(e) The number of sites where necessary response actions have~~  
23 ~~been completed pursuant to agreements entered into under this~~  
24 ~~article.~~

25 SEC. 13. Section 39604 of the Health and Safety Code is  
26 repealed.

27 ~~39604. (a) The state board shall submit to the Governor and~~  
28 ~~the Legislature, not later than January 1, 1985, and every two years~~  
29 ~~thereafter, a biennial report on air quality conditions and trends~~  
30 ~~statewide and on the status and effectiveness of state and local air~~  
31 ~~quality programs.~~

32 ~~(b) The report shall include, but not be limited to, all of the~~  
33 ~~following:~~

34 ~~(1) A review of air quality trends in each air basin over the most~~  
35 ~~recent five calendar year period for which a complete data record~~  
36 ~~is available.~~

37 ~~(2) A statement of the number of violations of air quality~~  
38 ~~standards that occurred in each air basin over the most recent two~~  
39 ~~calendar years for which a complete data record is available, and~~  
40 ~~a comparison of the number of violations to those in prior years.~~

~~(3) A listing of any changes in state ambient air quality standards adopted by the board over the previous two calendar years.~~

~~(4) A summary of the results of research projects concluded during the previous two years, the status of current research projects, and the conduct of the research program pursuant to Section 39703.~~

~~(5) A summary of any actions taken by the state board to assume the powers of districts under Section 39808.~~

~~(6) A summary of the effects of any significant federal actions over the previous two years that have affected state air quality or air quality programs.~~

~~(7) A summary of the status of the state implementation plan for achieving and maintaining ambient air quality standards.~~

~~(8) A summary of the state board's actions in the previous two calendar years to control toxic air pollutants pursuant to Chapter 3.5 (commencing with Section 39650).~~

~~(9) A summary of actions of the state board in controlling emissions from motor vehicles during the previous two-year period.~~

~~(10) A summary of significant actions taken by districts to control emissions from nonvehicular sources during the previous two-year period. This summary shall not include a district by district analysis for each district in the state, but shall include an overall analysis.~~

~~(11) A list of recommendations for legislation or administrative actions to resolve specific air quality problems in the state.~~

SEC. 14. Section 39607.5 of the Health and Safety Code is amended to read:

39607.5. (a) The state board shall develop, and adopt in a public hearing a methodology for use by districts to calculate the value of credits issued for emission reductions from stationary, mobile, indirect, and areawide sources, including those issued under market-based incentive programs, when those credits are used interchangeably.

(b) In developing the methodology, the state board shall do all of the following:

(1) Ensure that the methodology results in the maintenance and improvement of air quality consistent with this division.

1 (2) Allow those credits to be used in a market-based incentive  
2 program adopted pursuant to Section 39616 that requires annual  
3 reductions in emissions through declining annual allocations, and  
4 allow the use of all of those credits, including those from a  
5 market-based incentive program, to meet other stationary or  
6 mobile source requirements that do not expressly prohibit that use.

7 (3) Ensure that the methodology does not do any of the  
8 following:

9 (A) Result in the crediting of air emissions that already have  
10 been identified as emission reductions necessary to achieve state  
11 and federal ambient air quality standards.

12 (B) Provide for an additional discount of credits solely as a  
13 result of emission reduction credits trading if a district already has  
14 discounted the credit as part of its process of identifying and  
15 granting those credits to sources.

16 (C) Otherwise provide for double-counting emission  
17 reductions.

18 (4) Consult with, and consider the suggestions of, the public  
19 and all interested parties, including, but not limited to, the  
20 California Air Pollution Control Officers Association and all  
21 affected regulated entities.

22 (5) Ensure that any credits, whether they are derived from  
23 stationary, mobile, indirect, or areawide sources, shall be  
24 permanent, enforceable, quantifiable, and surplus.

25 (6) Ensure that any credits derived from a market-based  
26 incentive program adopted pursuant to Section 39616 are  
27 permanent, enforceable, quantifiable, and are in addition to any  
28 required controls, unless those credits otherwise comply with  
29 paragraph (2).

30 (7) Consider all of the following factors:

31 (A) How long credits should be valid.

32 (B) Whether, and which, banking opportunities may exist for  
33 credits.

34 (C) How to provide flexibility to sources seeking to use credits  
35 so that they remain interchangeable and negotiable until used.

36 (D) How to ensure a viable trading process for sources wishing  
37 to trade credits consistent with this section.

38 (E) How to ensure that, if credits may be used within and  
39 between adjacent districts or air basins where sources are in

1 proximity to one another, the use occurs while maintaining and  
2 improving air quality in both districts or air basins.

3 (c) If necessary, the state board shall periodically update the  
4 methodology as it applies to future transactions.

5 (d) The state board shall periodically review each district's  
6 emission reduction and credit trading programs to ensure that the  
7 programs comply with the methodology developed pursuant to  
8 this section.

9 ~~(e) The state board shall annually prepare and submit a report~~  
10 ~~to the Legislature and the Governor that summarizes the actions~~  
11 ~~taken by the state board to implement this section.~~

12 SEC. 15. Section 39619.5 of the Health and Safety Code is  
13 amended to read:

14 39619.5. (a) The state board shall develop and conduct an  
15 expanded and revised program of monitoring of airborne fine  
16 particles smaller than 2.5 microns in diameter (PM 2.5). The  
17 program shall be designed to accomplish all of the following:

18 (1) The monitoring method selected shall be capable of  
19 accurately representing the spectrum of compounds that comprise  
20 PM 2.5 in the atmosphere of regions where monitoring is  
21 conducted, including nitrates and other inorganic compounds, as  
22 well as carbonaceous materials.

23 (2) To the extent feasible, the state board shall consider  
24 approved federal particulate methods in selecting a monitoring  
25 method for the program.

26 (3) The monitoring network used in the program shall site  
27 monitors so as to characterize population exposure, background  
28 conditions, and transport influence, and attain any other objective  
29 identified by the state board as necessary to understand conditions  
30 and to provide information for the development of control  
31 strategies.

32 (4) Portable monitors shall be used in locations not now  
33 monitored for PM 10, but where elevated PM 2.5 might be  
34 expected.

35 (5) During the initial two years of expanded monitoring, PM  
36 2.5 monitoring shall be done at one or more of the highest level PM  
37 10 sites in any region that violates the federal ambient air quality  
38 standard for PM 10, to enable a determination of the correlation  
39 between levels of PM 10 and PM 2.5.



(6) In regions where ambient source characterization studies for PM 2.5 have not been completed, the state board shall work with the district to develop and conduct those studies.

~~(b) The state board shall report annually by January 1 to the Legislature on the status and results of the airborne fine particle air pollution monitoring program. The state board shall report biennially to the Legislature on the status and results of the airborne fine particle air pollution monitoring program, in accordance with the requirements of Chapter 4 (commencing with Section 71069) of Part 2 of Division 34 of the Public Resources Code.~~

SEC. 16. Section 39702.5 of the Health and Safety Code is repealed.

~~39702.5. (a) The state board, in consultation with the advisory committee established pursuant to subdivision (c), shall investigate and provide a report to the Legislature by January 1, 2002, on all of the following matters with regard to emissions abatement equipment required by the San Joaquin Valley Unified Air Pollution Control District with respect to primarily seasonal sources from steam generators, boilers, process heaters, furnaces, and dehydrators that are subject to BACT and BARCT requirements:~~

~~(1) The average useful life of emissions abatement equipment utilized to meet “best available control technology” (BACT), as defined in Section 40405, or “best available retrofit control technology” (BARCT), as defined in Section 40406. This assessment shall be based on projections provided by the district, the experience of source operators, and representations made by manufacturers of the equipment.~~

~~(2) The implications of imposing additional requirements on emission sources already controlled to BACT and BARCT levels, accounting for the costs of, and the emission reductions attributable to, previous BACT and BARCT controls.~~

~~(3) The average, actual, and historical costs, for a representative number of sources of steam generators, boilers, process heaters, furnaces, and dehydrators that are subject to BACT and BARCT requirements of complying with those requirements, and a comparison of those costs to estimates utilized by the district in the development of those requirements.~~

~~(4) The implications of applying incremental cost effectiveness thresholds to sources that are subject to BACT and BARCT requirements, and the implications of applying these thresholds for the development of future BACT and BARCT requirements.~~

~~(b) The investigation required by this section shall include only the sources of oxides of nitrogen (NO<sub>x</sub>) controlled by BACT and BARCT requirements in the district described in subdivision (a).~~

~~(c) The report required by subdivision (a) shall take into account air quality and public health considerations, as well as factors such as growth, interbasin transport of air pollutants from other regions, and other factors deemed appropriate by the state board. The report shall also specifically take into account the operation of seasonal sources, safety issues, energy efficiency, capital costs, operational and maintenance costs, and the implications of potential catastrophic events on sources. The state board shall also consider any other factors deemed appropriate by the advisory committee appointed pursuant to subdivision (e). The advisory board, if it deems appropriate, may recommend that the state board also consider including stationary internal combustion engines in the report, if the advisory board also determines that the inclusion of stationary internal combustion engines would not significantly expand the scope of the report.~~

~~(d) The state board shall have the final determination of the scope of the investigation and the report required by this section.~~

~~(e) The state board shall appoint an advisory committee to assist the state board in, and to provide advice on, the investigation conducted and the report prepared pursuant to subdivision (a). To the extent practicable, this advisory committee shall include representatives from all of the following:~~

~~(1) The district.~~

~~(2) Environmental organizations.~~

~~(3) Stationary source-related organizations.~~

~~(4) Seasonal stationary source-related organizations.~~

~~(5) Agricultural interests.~~

~~(6) A representative of the United States Environmental Protection Agency shall be invited to participate.~~

~~(7) Any other entity or organization the state board deems appropriate.~~

~~(f) The principal purpose of the report required by subdivision (a) is to provide a basis for evaluating the cost effectiveness, safety,~~

1 ~~and related matters associated with air pollution control~~  
2 ~~technologies in the San Joaquin Valley.~~

3 SEC. 17. Section 40459 of the Health and Safety Code is  
4 amended to read:

5 40459. (a) (1) Except as provided in paragraph (4), on or  
6 before January 1, 2001, the operator of any facility within either  
7 the Port of Los Angeles or the Port of Long Beach that stores,  
8 handles, or transports petroleum coke and is subject to the enclosed  
9 storage pile deadlines of Rule 1158 shall comply with the  
10 enclosure requirement of Rule 1158.

11 (2) Except as provided in paragraph (4), on or before January  
12 1, 2002, the facility operator at the Port of Los Angeles shall  
13 enclose the ready pile referenced in subparagraph (k)(10) of Rule  
14 1158.

15 (3) On or before January 1, 2004, the facility operator at the  
16 Port of Long Beach shall discontinue the use of, or replace the  
17 shiploader referenced in subparagraph (k)(6) of Rule 1158.

18 (4) Notwithstanding paragraphs (1) and (2), if the construction  
19 of additional enclosed storage within the Port of Los Angeles is  
20 commenced on or before April 1, 2001, the facility operator is not  
21 required to comply with subparagraph (k)(10) of Rule 1158 until  
22 April 1, 2002.

23 For purposes of this paragraph, “construction of additional  
24 enclosed storage” means any storage enclosure for which the  
25 south coast district issues a permit to construct on or after January  
26 1, 2001, but before April 1, 2001, and construction begins on or  
27 before April 1, 2001.

28 (b) The south coast district, ~~in conjunction with the state board,~~  
29 shall annually submit a study to the Legislature that examines the  
30 frequency and severity of violations of south coast district rules  
31 related to the storage, transportation, and handling of petroleum  
32 coke.

33 (c) Until the facility operator at the Port of Los Angeles  
34 encloses the outdoor ready pile, as specified in paragraph (2) of  
35 subdivision (a), the south coast district shall monitor the size of  
36 that ready pile to ensure compliance with the 50,000 metric ton  
37 limit requirement in that facility’s March 31, 1999, Rule 1158  
38 interim storage plan.

39 (d) On and after January 1, 2003, the south coast district shall  
40 maintain a program to monitor particulates within the Port of Los

1 Angeles and the Port of Long Beach and shall assess prevalent  
2 coke particulates and improvements in air quality.

3 (e) For purposes of this section, “Rule 1158” means the rule  
4 adopted by the south coast district on December 2, 1983, and  
5 amended June 11, 1999, pursuant to this chapter. Any terms used  
6 in this section and in Rule 1158 shall have the same meaning as  
7 provided in Rule 1158.

8 SEC. 18. Section 41712 of the Health and Safety Code is  
9 amended to read:

10 41712. (a) For purposes of this section, the following terms  
11 have the following meaning:

12 (1) “Consumer product” means a chemically formulated  
13 product used by household and institutional consumers, including,  
14 but not limited to, detergents; cleaning compounds; polishes; floor  
15 finishes; cosmetics; personal care products; home, lawn, and  
16 garden products; disinfectants; sanitizers; aerosol paints; and  
17 automotive specialty products; but does not include other paint  
18 products, furniture coatings, or architectural coatings.

19 (2) “Health benefit product” means an antimicrobial product  
20 registered with the Environmental Protection Agency.

21 (3) “Maximum feasible reduction in volatile organic  
22 compounds emitted” means at least a 60-percent reduction in the  
23 emissions of volatile organic compounds resulting from the use of  
24 aerosol paints, calculated with respect to the 1989 baseline year,  
25 including acetone in that baseline year.

26 (4) “Medical expert” means a physician, including a  
27 pediatrician, a microbiologist, or a scientist involved in research  
28 related to infectious disease and infection control.

29 (b) The state board shall adopt regulations to achieve the  
30 maximum feasible reduction in volatile organic compounds  
31 emitted by consumer products, if the state board determines that  
32 adequate data exists to establish both of the following:

33 (1) The regulations are necessary to attain state and federal  
34 ambient air quality standards.

35 (2) The regulations are commercially and technologically  
36 feasible and necessary.

37 (c) A regulation shall not be adopted which requires the  
38 elimination of a product form.

39 (d) The state board shall not adopt regulations pursuant to  
40 subdivision (b) unless the regulations are technologically and

1 commercially feasible, and necessary to carry out this division.  
2 The state board shall consider the effect that the regulations  
3 proposed for health benefit products will have on the efficacy of  
4 those products in killing or inactivating agents of infectious  
5 diseases such as viruses, bacteria, and fungi, and the impact the  
6 regulations will have on the availability of health benefit products  
7 to California consumers.

8 (e) ~~(1)~~ Prior to adopting regulations pursuant to this section  
9 governing health benefit products, the state board shall consider  
10 any recommendations received from federal, state, or local public  
11 health agencies and medical experts in the field of public health.

12 ~~(2) Within 30 days from the date of the adoption of any~~  
13 ~~regulation pursuant to this section governing health benefit~~  
14 ~~products, the state board shall prepare and submit to the~~  
15 ~~Legislature and the Governor a report that summarizes any~~  
16 ~~recommendations received pursuant to paragraph (1) and any~~  
17 ~~conclusions made by the state board concerning the~~  
18 ~~recommendations.~~

19 (f) A district shall adopt no regulation pertaining to  
20 disinfectants, nor any regulation pertaining to a consumer product  
21 that is different than any regulation adopted by the state board for  
22 that purpose.

23 (g) A consumer product manufactured prior to each effective  
24 date specified in regulations adopted by the state board pursuant  
25 to this section that applies to that consumer product may be sold,  
26 supplied, or offered for sale for a period of three years from the  
27 specified effective date if the date of manufacture or a  
28 representative date code is clearly displayed on the product at the  
29 point of sale. An explanation of the date code shall be filed with  
30 the state board.

31 (h) (1) It is the intent of the Legislature that, prior to January  
32 1, 2000, air pollution control standards affecting the formulation  
33 of aerosol adhesives and limiting emissions of reactive organic  
34 compounds resulting from the use of aerosol adhesives be set  
35 solely by the state board to ensure uniform standards applicable on  
36 a statewide basis.

37 (2) The Legislature recognizes that the current state board  
38 volatile organic compound (VOC) limit for aerosol adhesives is 75  
39 percent by weight. Effective January 1, 1997, the state board's  
40 75-percent standard shall apply to all uses of aerosol adhesives,

1 including consumer, industrial, and commercial uses, and any  
2 district regulations limiting the VOC content of, or emissions  
3 from, aerosol adhesives, are null and void. After that date, a district  
4 may adopt and enforce the state board's 75-percent standard for  
5 aerosol adhesives, or a subsequently adopted state board standard,  
6 in the same manner as a district regulation limiting the issuance of  
7 air contaminants.

8 ~~(3) On or before July 1, 2000, the state board shall prepare a~~  
9 ~~study and conduct a public hearing on the need for, and the~~  
10 ~~feasibility of, establishing a more stringent standard or standards~~  
11 ~~for aerosol adhesives. If the state board finds that more stringent~~  
12 ~~limits for aerosol adhesives are expected to become feasible, the~~  
13 ~~state board shall, at that time, adopt a standard or standards to~~  
14 ~~implement more stringent VOC limits. At a minimum, the state~~  
15 ~~board shall establish standards pursuant to this paragraph that~~  
16 ~~constitute best available retrofit control technology, as defined in~~  
17 ~~Section 40406, and implement all plans adopted pursuant to~~  
18 ~~Chapter 10 (commencing with Section 40910) of Part 3 unless the~~  
19 ~~state board determines that those measures are not achievable.~~

20 ~~(4)~~ Notwithstanding any other provision of this section, on and  
21 after January 1, 2000, a district may adopt and enforce a regulation  
22 setting an emission standard or standards for VOC emissions for  
23 the use of aerosol adhesives that is more stringent than the  
24 standards adopted by the state board.

25 (i) (1) It is the intent of the Legislature that air pollution  
26 control standards affecting the formulation of aerosol paints and  
27 limiting the emissions of volatile organic compounds resulting  
28 from the use of aerosol paints be set solely by the state board to  
29 ensure uniform standards applicable on a statewide basis. A  
30 district shall not adopt or enforce any regulation regarding the  
31 volatile organic compound content of, or emissions from, aerosol  
32 paints until such time as the state board has adopted a regulation  
33 regarding those paints, and any district regulation shall not be  
34 different than the state board regulation. A district may observe  
35 and enforce a state board regulation regarding aerosol paints in the  
36 same manner as a district regulation limiting the issuance of air  
37 contaminants. This subdivision shall not apply to any district that  
38 has adopted a rule or regulation regarding aerosol paints pursuant  
39 to an order of a federal court, until such time as the federal court

1 has authorized the district to observe and enforce the state board  
2 regulation in lieu of the district regulation.

3 (2) ~~On or before January 1, 1995, the~~ *The* state board shall  
4 adopt regulations requiring the maximum feasible reduction in  
5 volatile organic compounds emitted from the use of aerosol paints.  
6 The regulations shall establish final limits and require full  
7 compliance ~~not later than December 31, 1999~~, and shall establish  
8 interim limits prior to that date resulting in reductions in reactive  
9 organic compounds.

10 (3) ~~On or before December 31, 1998, the~~ *The* state board shall  
11 conduct a public hearing on the technological or commercial  
12 feasibility of achieving full compliance with the final limits ~~by~~  
13 ~~December 31, 1999~~. If the state board determines that a 60-percent  
14 reduction in emissions of reactive organic compounds from the use  
15 of aerosol paints is not technologically or commercially feasible  
16 ~~by December 31, 1999~~, the state board may grant an extension of  
17 time not to exceed five years. During any such extension of time,  
18 the most stringent interim limits shall be applicable. Any  
19 regulation adopted by the state board shall include a provision  
20 authorizing the time extension and requiring a public hearing on  
21 technological or commercial feasibility consistent with this  
22 subdivision. The state board shall seek to ensure that the final  
23 limits for aerosol paints established pursuant to this subdivision do  
24 not become federally enforceable prior to the effective date  
25 established by the state board for these limits, including any  
26 extension granted under this subdivision.

27 (4) Reductions required for aerosol paints under this  
28 subdivision are not intended to apply to any other consumer  
29 product.

30 (j) The state board shall not adopt a regulation pertaining to  
31 disinfectants any sooner than December 1, 2003.

32 (k) The state board shall comply with its volatile organic  
33 compound emission reduction obligations under the 1994 State  
34 Implementation Plan, or any amendments thereto, and shall ensure  
35 that there is no loss of emission reductions as a result of its  
36 compliance with subdivision (j).

37 SEC. 19. Section 41865 of the Health and Safety Code is  
38 amended to read:



41865. (a) This section shall be known, and may be cited, as the Connelly-Areias-Chandler Rice Straw Burning Reduction Act of 1991.

(b) As used in this section:

(1) "Sacramento Valley Air Basin" means the area designated by the state board pursuant to Section 39606.

(2) "Air pollution control council" means the Sacramento Valley Basinwide Air Pollution Control Council authorized pursuant to Section 40900.

(3) "Conditional rice straw burning permit" means a permit to burn granted pursuant to subdivisions (f) and (h).

(4) "Allowable acres to be burned" means the number of acres that may be burned pursuant to subdivision (c).

(5) "Department" means the Department of Food and Agriculture.

(6) "Maximum fall burn acres" means the maximum amount of rice acreage that may be burned from September 1 to December 31, inclusive, of each year.

(7) "Maximum spring burn acres" means the maximum amount of rice acreage that may be burned from January 1 to May 31 of the following year, inclusive.

(c) Notwithstanding Section 41850, rice straw burning in counties in the Sacramento Valley Air Basin shall be phased down, as follows:

(1) From 1998 to 2000, the maximum spring and fall burn acres shall be the following number of acres planted prior to September 1 of each year:

Year	Maximum Fall Burn Acres	Maximum Spring Burn Acres
1998	90,000	110,000
1999	90,000	110,000
2000	90,000	110,000

(2) Notwithstanding paragraph (1), any of the 90,000 acres allocated in the fall that are not burned may be added to the maximum spring burn acres, provided that the maximum spring burn acres does not exceed 160,000 acres.

(3) Notwithstanding paragraph (1), the maximum acres burned between January 1, 1998, and August 31, 1998, shall be limited so that the total acres burned between September 1, 1997, and August

1 31, 1998, do not exceed 38 percent of the total acres planted prior  
2 to September 1, 1997.

3 (4) In 2001 and thereafter, the maximum annual burn acres  
4 shall be the number of acres prescribed in subdivision (i), subject  
5 to subdivisions (f) and (h).

6 (d) The number of allowable acres to be burned each day shall  
7 be determined by the state board and the air pollution control  
8 officers in the Sacramento Valley Air Basin and equitably  
9 allocated among rice growers in accordance with the annual  
10 agricultural burning plan adopted by the air pollution control  
11 council and approved by the state board.

12 (e) On or before September 1, 2000, the state board, in  
13 consultation with the department and the air pollution control  
14 council, shall adopt regulations consistent with the criteria  
15 provided in subdivisions (f) and (h). On or before September 1,  
16 1996, an advisory group shall be established by the state board and  
17 the department to assist in the adoption of those regulations.

18 (f) Commencing September 1, 2001, the county air pollution  
19 control officers in the Sacramento Valley Air Basin may grant  
20 conditional rice straw burning permits once the county agricultural  
21 commissioner has determined that the applicant has met the  
22 conditions specified in subdivision (h). The county agricultural  
23 commissioner shall be responsible for all field inspections  
24 associated with the issuance of conditional rice straw burning  
25 permits. A conditional rice straw burning permit shall be valid for  
26 only one burn, per field, per year.

27 (g) The county agricultural commissioner may charge the  
28 applicant a fee not to exceed the costs incurred by the county  
29 agricultural commissioner in making the determination specified  
30 in subdivision (f). This subdivision shall be operative only until  
31 January 1, 2009.

32 (h) If the terms and conditions for issuing conditional rice straw  
33 burning permits specified in paragraphs (1) to (4), inclusive, are  
34 met, a conditional rice straw burning permit may be issued unless  
35 the state board and the department have jointly determined, based  
36 upon an annual review process, that there are other economically  
37 and technically feasible alternative means of eliminating the  
38 disease that are not substantially more costly to the applicant. The  
39 terms and conditions for issuing the conditional rice straw burning  
40 permits are:

1 (1) The fields to be burned are specifically described.

2 (2) The applicant has not violated any provision of this section  
3 within the previous three years.

4 (3) During the growing season, the county agricultural  
5 commissioner has independently determined the significant  
6 presence of a pathogen in an amount sufficient to constitute a rice  
7 disease such as stem rot.

8 (4) The county agricultural commissioner makes a finding that  
9 the existence of the pathogen as identified in paragraph (3) will  
10 likely cause a significant, quantifiable reduction in yield in the  
11 field to be burned during the current or next growing season. The  
12 findings of the county agricultural commissioner shall be based on  
13 recommendations adopted by the advisory group established  
14 pursuant to subdivision (e).

15 (i) (1) The maximum annual number of acres burned in the  
16 Sacramento Valley Air Basin pursuant to paragraph (4) of  
17 subdivision (c) shall be the lesser of:

18 (A) The total of 25 percent of each individual applicant's  
19 planted acres that year.

20 (B) A total of 125,000 acres planted in the Sacramento Valley  
21 Air Basin.

22 (2) Each grower shall be eligible to burn up to 25 percent of the  
23 grower's planted acres, as determined by the air pollution control  
24 officers in the Sacramento Valley Air Basin and subject to the  
25 maximum annual number of acres burned set forth in paragraph  
26 (1), if the grower has met the criteria for a conditional rice straw  
27 burning permit.

28 (3) The air pollution control council shall annually determine  
29 which is the lesser of subparagraphs (A) and (B) of paragraph (1),  
30 and shall determine the maximum percentage applicable to all  
31 growers subject to the conditions set forth in subdivisions (f) and  
32 (h).

33 (4) A grower who owns or operates 400 acres or less who has  
34 met the criteria for the issuance of a conditional rice straw burning  
35 permit may burn his or her entire acreage once every four years,  
36 provided that the limit prescribed in paragraph (1) is not exceeded.

37 (5) Nothing in this subdivision shall permit an applicant to  
38 transfer, sell, or trade any permission to burn granted pursuant to  
39 this subdivision to another applicant or individual.

1 (j) The state board and the department shall jointly determine  
2 if the allowable acres to be burned, as provided in subdivisions (c),  
3 (f), and (h), may be exceeded due to extraordinary circumstances,  
4 such as an act of God, that have an impact over a continuing  
5 duration and make alternatives other than burning unusable.

6 (k) “Administrative burning” means burning of vegetative  
7 materials along roads, in ditches, and on levees adjacent to or  
8 within a rice field, or the burning of vegetative materials on rice  
9 research facilities authorized by the county agricultural  
10 commissioner, not to exceed 2,000 acres. Administrative burning  
11 conducted in accordance with Section 41852 is not subject to this  
12 section.

13 (l) (1) On or before September 1, 1992, the state board and the  
14 department shall jointly establish an advisory committee  
15 composed of 10 members to assist with the identification and  
16 implementation of alternatives to rice straw burning. Members of  
17 the committee shall be from the Sacramento Valley Air Basin, and  
18 the committee shall consist of two rice growers, two  
19 representatives from the environmental community, two health  
20 officials, two county supervisors or their designees, one member  
21 from the air pollution control council, and one member from the  
22 business community with expertise in market or product  
23 development. The committee shall meet at least annually. General  
24 Fund moneys shall not be used to support the committee.

25 (2) The committee shall develop a list of priority goals for the  
26 development of alternative uses of rice straw for the purpose of  
27 developing feasible and cost-effective alternatives to rice straw  
28 burning. These goals shall include, but not be limited to, research  
29 on alternatives, economic incentives to encourage alternative uses,  
30 and new product development.

31 (m) On or before September 1, 1998, the state board, in  
32 consultation with the department, the advisory committee, and the  
33 Trade and Commerce Agency, shall develop an implementation  
34 plan and a schedule to achieve diversion of not less than 50 percent  
35 of rice straw produced toward off-field uses by 2000. Off-field  
36 uses may include, but are not limited to, the production of energy  
37 and fuels, construction materials, pulp and paper, and livestock  
38 feed.

39 ~~(n) On or before September 1, 1999, the state board and the~~  
40 ~~department shall jointly report to the Legislature on the progress~~

1 of the phasedown of, and the identification and implementation of  
2 alternatives to, rice straw burning. This report shall include an  
3 economic and environmental assessment, the status of feasible and  
4 cost-effective alternatives to rice straw burning, recommendations  
5 from the advisory committee on the development of alternatives  
6 to rice straw burning, the status of the implementation plan and the  
7 schedule required by subdivision (m), progress toward achieving  
8 the 50 percent diversion goal, any recommended changes to this  
9 section, and other issues related to this section. The report shall be  
10 updated biennially and transmitted to the Legislature not later than  
11 September 1 of each odd-numbered year. The state board may  
12 adjust the district burn permit fees specified in subdivision (s) to  
13 pay for the preparation of the report and its updates. The districts  
14 shall collect and remit the adjustment to the state board, which  
15 shall deposit the fees in the Motor Vehicle Account in the State  
16 Transportation Fund. It shall be the goal of the state board and the  
17 department that the cost of the report and its updates shall not  
18 exceed fifty thousand dollars (\$50,000).

19 ~~(o) The state board and the Department of Food and~~  
20 ~~Agriculture shall jointly collect and analyze all available data~~  
21 ~~relevant to the air quality and public health impacts and, to the~~  
22 ~~extent feasible, the economic impacts, that may be associated with~~  
23 ~~the burning of rice straw pursuant to the schedule provided in~~  
24 ~~paragraph (1) of subdivision (e). On or before July 1, 2001, the~~  
25 ~~state board shall submit a report to the Legislature presenting its~~  
26 ~~findings regarding the air quality, public health, and economic~~  
27 ~~impacts associated with the burning of rice straw pursuant to the~~  
28 ~~schedule provided in paragraph (1) of subdivision (e).~~

29 ~~(p)–~~

30 (n) The Legislature hereby finds and declares as follows:

31 (1) Because of the requirements imposed by this section, rice  
32 straw that was previously burned may present, as solid waste, a  
33 new disposal problem.

34 (2) The state should assist local governments and growers in  
35 diverting rice straw from landfills by researching and developing  
36 diversion options.

37 ~~(q)–~~

38 (o) It is the intent of the Legislature that all feasible alternatives  
39 to rice straw burning and options for diverting rice straw from  
40 landfills be encouraged.

~~(t)~~—

(p) This subdivision confirms that reductions in emissions from rice straw burning qualify for air quality offsets, in accordance with paragraphs (1) and (2).

(1) These credits shall meet the requirements specified in state law and district rules and regulations, and shall comply with applicable district banking rules established pursuant to Sections 40709 to 40713, inclusive. Districts are urged to establish banking systems in accordance with Sections 40709 to 40713, inclusive.

The state board may adopt regulations to implement this subdivision, including, but not limited to, consideration of the seasonal and intermittent nature of rice straw burning emissions. In developing the regulations, the state board shall consult with all concerned parties. However, emission reduction credits that would otherwise accrue from reductions in emissions from rice straw burning shall not be affected or negated by the phasedown of burning, as specified in subdivision (c).

(2) Reductions in emissions achieved in compliance with subdivision (c) that are banked or used as credits shall not be credited for purposes of attainment planning and progress towards the attainment of any state or national ambient air quality standard as required by state and federal law.

~~(s)~~—

(q) (1) Any person who negligently or intentionally violates any provision of this article is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars (\$10,000), imprisonment in the county jail for not more than nine months, or by both that fine and imprisonment. This subdivision applies only to agricultural burning in the Sacramento Valley Air Basin.

(2) Any person who negligently or intentionally violates any provision in this article is liable for a civil penalty of not more than ten thousand dollars (\$10,000). This subdivision applies only to agricultural burning in the Sacramento Valley Air Basin.

~~(t)~~—

(r) Districts in the Sacramento Valley Air Basin shall impose fees on growers to cover the cost of implementing this section pursuant to Section 42311.

~~(u)~~—

(s) To the extent that resources are available, the state board and the agencies with jurisdiction over air quality within the Sacramento Valley Air Basin shall do both of the following:

(1) Improve responses to citizen complaints, and, to the extent feasible, immediately investigate and analyze smoke complaints from the public to identify factors that contribute to complaints and to develop better smoke control measures to be included in the agricultural burning plan, keep a record of all complaints, coordinate among other agencies on citizens' complaints, and investigate the source of the pollution causing the complaint.

(2) Respond more quickly to requests for update from county air pollution control officers to help maximize burning days when meteorological conditions are best suited for smoke dispersion.

SEC. 20. Section 43032 of the Health and Safety Code is repealed.

~~43032. Notwithstanding Section 7550.5 of the Government Code, on or before January 1, 2002, the state board shall report to the Assembly Committee on Natural Resources, the Assembly Committee on Transportation, the Senate Committee on Criminal Procedure, and the Senate Committee on Transportation all violations that are subject to this chapter, any settlements reached, and the rate of compliance with any requirements that are subject to this chapter.~~

SEC. 21. Section 43101 of the Health and Safety Code is repealed.

~~43101. The state board shall adopt and implement emission standards for new motor vehicles for the control of emissions therefrom, which standards the state board has found to be necessary and technologically feasible to carry out the purposes of this division. Prior to adopting such standards, the state board shall consider the impact of such standards on the economy of the state, including, but not limited to, their effect on motor vehicle fuel efficiency. The state board shall submit a report of its findings on which the standards are based to the Legislature within 30 days of adoption of the standards.~~

~~Such standards may be applicable to motor vehicle engines, rather than to motor vehicles.~~

SEC. 22. Section 43105.5 of the Health and Safety Code is amended to read:



1 43105.5. (a) For all 1994 and later model-year motor  
2 vehicles equipped with on board diagnostic systems (OBD's) and  
3 certified in accordance with the test procedures adopted pursuant  
4 to Section 43104, the state board, not later than January 1, 2002,  
5 shall adopt regulations that require a motor vehicle manufacturer  
6 to do all of the following to the extent not limited or prohibited by  
7 federal law (the regulations adopted by the state board pursuant to  
8 this provision may include subject matter similar to the subject  
9 matter included in regulations adopted by the United States  
10 Environmental Protection Agency):

11 (1) Make available, within a reasonable period of time, and by  
12 reasonable business means, including, but not limited to, use of the  
13 Internet, as determined by the state board, to all covered persons,  
14 the full contents of all manuals, technical service bulletins, and  
15 training materials regarding emissions-related motor vehicle  
16 information that is made available to their franchised dealerships.

17 (2) Make available for sale to all covered persons the  
18 manufacturer's emissions-related enhanced diagnostic tools, and  
19 make emissions-related enhanced data stream information and  
20 bidirectional controls related to tools available in electronic format  
21 to equipment and tool companies.

22 (3) If the motor vehicle manufacturer uses reprogrammable  
23 computer chips in its motor vehicles, provide equipment and tool  
24 companies with the information that is provided by the  
25 manufacturer to its dealerships to allow those companies to  
26 incorporate into aftermarket tools the same reprogramming  
27 capability.

28 (4) Make available to all covered persons, within a reasonable  
29 period of time, a general description of their on board diagnostic  
30 systems (OBD II) for the 1996 and subsequent model-years, which  
31 shall contain the information described in this paragraph. For each  
32 monitoring system utilized by a manufacturer that illuminates the  
33 OBD II malfunction indicator light, the motor vehicle  
34 manufacturer shall provide all of the following:

35 (A) A general description of the operation of the monitor,  
36 including a description of the parameter that is being monitored.

37 (B) A listing of all typical OBD II diagnostic trouble codes  
38 associated with each monitor.

39 (C) A description of the typical enabling conditions for each  
40 monitor to execute during vehicle operation, including, but not

1 limited to, minimum and maximum intake air and engine coolant  
2 temperature, vehicle speed range, and time after engine startup.

3 (D) A listing of each monitor sequence, execution frequency,  
4 and typical duration.

5 (E) A listing of typical malfunction thresholds for each  
6 monitor.

7 (F) For OBD II parameters for specific vehicles that deviate  
8 from the typical parameters, the OBD II description shall indicate  
9 the deviation and provide a separate listing of the typical value for  
10 those vehicles.

11 (G) The information required by this paragraph shall not  
12 include specific algorithms, specific software code, or specific  
13 calibration data beyond that required to be made available through  
14 the generic scan tool in federal and California on board diagnostic  
15 regulations.

16 (5) Not utilize any access or recognition code or any type of  
17 encryption for the purpose of preventing a vehicle owner from  
18 using an emissions-related motor vehicle part with the exception  
19 of the powertrain control modules, engine control modules, and  
20 transmission control modules, that has not been manufactured by  
21 that manufacturer or any of its original equipment suppliers.

22 (6) Provide to all covered persons information regarding  
23 initialization procedures relating to immobilizer circuits or other  
24 lockout devices to reinitialize vehicle on board computers that  
25 employ integral vehicle security systems if necessary to repair or  
26 replace an emissions-related part, or if necessary for the proper  
27 installation of vehicle on board computers that employ integral  
28 vehicle security systems.

29 (7) All information required to be provided to covered persons  
30 by this section shall be provided, for fair, reasonable, and  
31 nondiscriminatory compensation, in a format that is readily  
32 accessible to all covered persons, as determined by the state board.

33 (b) Any information required to be disclosed pursuant to a final  
34 regulation adopted under this section that the motor vehicle  
35 manufacturer demonstrates to a court, on a case-by-case basis, to  
36 be a trade secret pursuant to the Uniform Trade Secret Act  
37 contained in Title 5 (commencing with Section 3426) of Part 1 of  
38 Division 4 of the Civil Code, shall be exempt from disclosure,  
39 unless the court, upon the request of a covered person seeking  
40 disclosure of the information, determines that the disclosure of the

1 information is necessary to mitigate anticompetitive effects. In  
2 making this determination, the court shall consider, among other  
3 things, the practices of any motor vehicle manufacturer that results  
4 in the fullest disclosure of information listed in paragraph (4) of  
5 subdivision (a). In actions subject to this subdivision, the court  
6 shall preserve the secrecy of an alleged trade secret by reasonable  
7 means, which may include granting a protective order in  
8 connection with discovery proceedings, holding an in-camera  
9 hearing, sealing the record of the action, or ordering any person  
10 involved in the litigation not to disclose an alleged trade secret  
11 without prior court approval.

12 (c) If information is required to be disclosed by a motor vehicle  
13 manufacturer pursuant to subdivision (b), the court shall allow for  
14 the imposition of reasonable business conditions as a condition of  
15 disclosure, and may include punitive sanctions for the improper  
16 release of information that is determined to be a trade secret to a  
17 competitor of the manufacturer. The court shall also provide for  
18 fair, reasonable, and nondiscriminatory compensation to the motor  
19 vehicle manufacturer for the disclosure of information determined  
20 by the court to be a trade secret and required to be disclosed  
21 pursuant to subdivision (b). The court shall provide for the  
22 dissemination of trade secret information required to be disclosed  
23 pursuant to subdivision (b) through licensing agreements and the  
24 collection of reasonable licensing fees. If the court determines that  
25 disclosure of any of the information required to be disclosed under  
26 subdivision (b) constitutes a taking of personal property, a jury  
27 trial shall be held to determine the amount of compensation for that  
28 taking, unless waived by the motor vehicle manufacturer.

29 (d) The state board shall periodically conduct surveys to  
30 determine whether the information requirements imposed by this  
31 section are being fulfilled by actual field availability of the  
32 information.

33 (e) If the executive officer of the state board obtains credible  
34 evidence that a motor vehicle manufacturer has failed to comply  
35 with any of the requirements of this section or the regulations  
36 adopted by the state board, the executive officer shall issue a notice  
37 to comply to the manufacturer. Not later than 30 days after  
38 issuance of the notice to comply, the vehicle manufacturer shall  
39 submit to the executive officer a compliance plan, unless within  
40 that 30-day period the manufacturer requests an administrative

1 hearing to contest the basis or scope of the notice to comply in  
2 accordance with subdivision (f). The executive officer shall accept  
3 the compliance plan if it provides adequate demonstration that the  
4 manufacturer will come into compliance with this section and the  
5 board's implementing regulations within 45 days following  
6 submission of the plan. However, the executive officer may extend  
7 the compliance period if the executive officer determines that the  
8 violation cannot be remedied within that period.

9 (f) If the motor vehicle manufacturer contests a notice to  
10 comply pursuant to subdivision (e) or the executive officer rejects  
11 the compliance plan submitted by the manufacturer, an  
12 administrative hearing shall be conducted by a hearing officer  
13 appointed by the state board, in accordance with procedures  
14 established by the state board. The hearing procedures shall  
15 provide the manufacturer and any other interested party at least 30  
16 days notice of the hearing. If, after the hearing, the hearing officer  
17 appointed by the state board finds that the motor vehicle  
18 manufacturer has failed to comply with any of the requirements of  
19 this section or the regulations adopted by the state board, and the  
20 manufacturer fails to correct the violation with 30 days from the  
21 date of the finding, the hearing officer may impose a civil penalty  
22 upon the manufacturer in an amount not to exceed twenty-five  
23 thousand dollars (\$25,000) per day per violation until the violation  
24 is corrected, as determined in accordance with the hearing  
25 procedures established by the state board. The hearing procedures  
26 may provide additional time for compliance prior to imposing a  
27 civil penalty. If so, the hearing officer may grant additional time  
28 for compliance if he or she determines that the violation cannot be  
29 remedied within 30 days of the finding that a violation has  
30 occurred.

31 ~~(g) The state board, in consultation with the Department of~~  
32 ~~Consumer Affairs, shall, through the year 2009, report annually to~~  
33 ~~the Legislature on the extent to which the implementation of this~~  
34 ~~act enacted during the 2000 portion of the 1999-2000 Regular~~  
35 ~~Session is effective in furthering the intent and policy of this act.~~

36 ~~(h)~~ Nothing in this section is intended to authorize the  
37 infringement of intellectual property rights embodied in United  
38 States patents, trademarks, or copyrights, to the extent those rights  
39 may be exercised consistently with any other federal laws.

SEC. 22.5. Section 44011 of the Health and Safety Code is amended to read:

44011. (a) All motor vehicles powered by internal combustion engines that are registered within an area designated for program coverage shall be required biennially to obtain a certificate of compliance or noncompliance, except for all of the following:

(1) Every motorcycle, and every diesel-powered vehicle, until the department, pursuant to Section 44012, implements test procedures applicable to motorcycles or to diesel-powered vehicles, or both.

(2) Any motor vehicle that has been issued a certificate of compliance or noncompliance or a repair cost waiver upon a change of ownership or initial registration in this state during the preceding six months.

(3) (A) Prior to January 1, 2003, any motor vehicle manufactured prior to the 1974 model-year.

(B) Beginning January 1, 2003, any motor vehicle that is 30 or more model-years old.

(4) (A) Any motor vehicle four or less model-years old.

(B) Beginning January 1, 2004, any motor vehicle up to six model-years old, unless the state board finds that providing an exception for these vehicles will prohibit the state from meeting the requirements of Section 176(c) of the Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with respect to the state implementation plan required by the Clean Air Act.

(C) Any motor vehicle excepted by this paragraph shall be subject to testing and to certification requirements as determined by the department, if any of the following apply:

(i) The department determines through remote sensing activities or other means that there is a substantial probability that the vehicle has a tampered emission control system or would fail for other cause a smog check test as specified in Section 44012.

(ii) The vehicle was previously registered outside this state and is undergoing initial registration in this state.

(iii) The vehicle is being registered as a specially constructed vehicle.

(iv) The vehicle has been selected for testing pursuant to Section 44014.7 or any other provision of this chapter authorizing out-of-cycle testing.

(5) In addition to the vehicles exempted pursuant to paragraph (4), any motor vehicle or class of motor vehicles exempted pursuant to subdivision (b) of Section 44024.5. It is the intent of the Legislature that the department, pursuant to the authority granted by this paragraph, exempt at least 15 percent of the lowest emitting motor vehicles from the biennial smog check inspection.

(6) Any motor vehicle that the ~~department~~ *California Department of the Highway Patrol and the South Coast Air Quality Management District* determines would present prohibitive inspection or repair problems.

(7) Any vehicle registered to the owner of a fleet licensed pursuant to Section 44020 if the vehicle is garaged exclusively outside the area included in program coverage, and is not primarily operated inside the area included in program coverage.

(b) Vehicles designated for program coverage in enhanced areas shall be required to obtain inspections from appropriate smog check stations operating in enhanced areas.

SEC. 23. Section 44100 of the Health and Safety Code is amended to read:

44100. The Legislature hereby finds and declares as follows:

(a) Emission reduction programs based on market principles have the potential to provide equivalent or superior environmental benefits when compared to existing controls at a lower cost to the citizens of California than traditional emission control requirements.

(b) Several studies have demonstrated that a small percentage of light-duty vehicles contribute disproportionately to the on-road emissions inventory. Programs to reduce or eliminate these excess emissions can significantly contribute to the attainment of the state's air quality goals.

(c) Programs to accelerate fleet turnover can enhance the effectiveness of the state's new motor vehicle standards by bringing more low-emission vehicles into the on-road fleet earlier.

(d) The California State Implementation Plan for Ozone (SIP), adopted November 15, 1994, and submitted to the Environmental Protection Agency, calls for added reductions in reactive organic gases (ROG) and oxides of nitrogen (NO<sub>x</sub>) from light-duty vehicles by the year 2010. One of the more market-oriented approaches reflected in the SIP, known as the M-1 strategy, calls for accelerating the retirement of older light-duty vehicles in the

South Coast Air Quality Management District to achieve the following emission reductions:

Year	Emissions, TPD (tons per day) (ROG + NOx)
1999	9
2002	14
2005	20
2007	22
2010	25

(e) A program for achieving those and more emission reductions should be based on the following principles:

~~(1) The first two years should include a thorough assessment of the costs and short-term and long-term emission reduction benefits of the program, compared with other emission reduction programs for light-duty vehicles, which shall be reflected in a report and recommendations by the state board to the Governor and the Legislature on strategies and funding needs for meeting the emission reduction requirements of the M-1 strategy of the 1994 SIP for the years 1999 to 2010, inclusive.~~

~~(2)~~ The program should first contribute to the achievement of the emission reductions required by the inspection and maintenance program and the M-1 strategy of the 1994 SIP, and should permit the use of mobile source emission reduction credits for other purposes currently authorized by the state board or a district. Remaining credits may be used to achieve other emission reductions, including those required by the 1994 SIP, in a manner consistent with market-based strategies. Emission credits shall not be used to offset emission standards or other requirements for new vehicles, except as authorized by the state board.

~~(3)~~

(2) Participation by the vehicle owner shall be entirely voluntary and the program design should be sensitive to the concerns of car collectors and to consumers for whom older vehicles provide affordable transportation.

~~(4)~~

(3) The program design shall provide for real, surplus, and quantifiable emission reductions, based on an evaluation of the purchased vehicles, taking into account factors that include



1 per-mile emissions, annual miles driven, remaining useful life of  
2 retired vehicles, and emissions of the typical or average  
3 replacement vehicle, as determined by the state board. The  
4 program shall ensure that there is no double counting of emission  
5 credits among the various vehicle removal programs.

6 ~~(5)–~~

7 (4) The program should specify the emission reductions  
8 required and then utilize the market to ensure that these reductions  
9 are obtained at the lowest cost.

10 ~~(6)–~~

11 (5) The program should be privately operated. It should utilize  
12 the experience and expertise gained from past successful  
13 programs. Existing entities that are authorized by, contracted with,  
14 or otherwise sanctioned by a district and approved by the state  
15 board and the United States Environmental Protection Agency  
16 shall be fully utilized for purposes of implementing this article.  
17 Nothing in this paragraph restricts the Department of Consumer  
18 Affairs from selecting qualified contractors to operate or  
19 administer any program specified pursuant to this chapter.

20 ~~(7)–~~

21 (6) The program should be designed insofar as possible to  
22 eliminate any benefit to any participants from vehicle tampering  
23 and other forms of cheating. To the extent that tampering and other  
24 forms of cheating might be advantageous, the program design  
25 shall include provisions for monitoring the occurrence of  
26 tampering and other forms of cheating.

27 ~~(8)–~~

28 (7) Emission credits should be expressed in pounds or other  
29 units, and their value should be set by the marketplace. Any  
30 contract between a public entity and a private party for the  
31 purchase of emission credits should be based on a price per pound  
32 which reflects the market value of the credit at its time of purchase.  
33 Emission reductions required by the M-1 and other strategies of  
34 the 1994 SIP shall be accomplished by competitive bid among  
35 private businesses solicited by the oversight agency designated  
36 pursuant to Section 44105.

37 SEC. 24. Section 44104.5 of the Health and Safety Code is  
38 amended to read:

39 44104.5. ~~(a)–~~The regulations adopted pursuant to subdivision  
40 (a) of Section 44101 shall include a plan to guide the execution of

1 the first two years of the program, to assess the results, and to  
2 formulate recommendations. The plan shall also verify whether  
3 the light-duty vehicle scrapping program included in the state  
4 implementation plan adopted on November 15, 1994, can  
5 reasonably be expected to yield the required emissions reductions  
6 at reasonable cost-effectiveness. Scrapping of any vehicles under  
7 this program for program development or testing or for generating  
8 emission reductions to be credited against the M-1 strategy of the  
9 1994 SIP may proceed before the state board adopts the  
10 regulations pursuant to subdivision (a) of Section 44101 or the  
11 plan required by this subdivision. The emission credits assigned to  
12 these vehicles shall be adjusted as necessary to ensure that those  
13 credits are consistent with the credits allowed under the  
14 regulations adopted pursuant to Section 44101. The plan shall  
15 include a baseline study, for the geographical area or areas  
16 representative of those to be targeted by this program and by  
17 measure M-1 in the SIP, of the current population of vehicles by  
18 model year and market value and the current turnover rate of  
19 vehicles, and other factors that may be essential to assessing  
20 program effectiveness, cost-effectiveness, and market impacts of  
21 the program.

22 ~~(b) At the end of each of the two calendar years after the~~  
23 ~~adoption of the program plan, the state board, in consultation with~~  
24 ~~the department, shall adopt and publish a progress report~~  
25 ~~evaluating each year of the program. These reports shall address~~  
26 ~~the following topics for those vehicles scrapped to achieve both the~~  
27 ~~M-1 SIP objectives and those vehicles scrapped or repaired to~~  
28 ~~generate mobile source emission reduction credits used for other~~  
29 ~~purposes:~~

- 30 (1) ~~The number of vehicles scrapped or repaired by model year.~~
- 31 (2) ~~The measured emissions of the scrapped or repaired~~  
32 ~~vehicles tested during the report period, using suitable inspection~~  
33 ~~and maintenance test procedures.~~
- 34 (3) ~~Costs of the vehicles in terms of amounts paid to sellers, the~~  
35 ~~costs of repair, and the cost effectiveness of scrappage and repair~~  
36 ~~expressed in dollars per ton of emissions reduced.~~
- 37 (4) ~~Administrative and testing costs for the program.~~
- 38 (5) ~~Assessments of the replacement vehicles or replacement~~  
39 ~~travel by model year or emission levels, as determined from~~

1 interviews, questionnaires, diaries, analyses of vehicle  
2 registrations in the study region, or other methods as appropriate.

3 (6) Assessments of the net emission benefits of scrapping in the  
4 year reported, considering the scrapped vehicles, the replacement  
5 vehicles, the effectiveness of repair, and other effects of the  
6 program on the mix of vehicles and use of vehicles in the  
7 geographical area of the program, including in migration of other  
8 vehicles into the area and any tendencies to increased market value  
9 of used vehicles and prolonged useful life of existing vehicles, if  
10 any.

11 (7) Assessments of whether the M-1 strategy of the 1994 SIP  
12 can reasonably be expected to yield the required emission  
13 reductions.

14 (c) Not later than June 30, 1999, and every three years  
15 thereafter, the state board, in consultation with the department,  
16 shall evaluate the performance of the programs specified in Article  
17 9 (commencing with Section 44090) and this article and, based on  
18 that evaluation, report to the Governor and Legislature. The report  
19 shall evaluate the overall performance of the program, including  
20 its cost-effectiveness in terms of dollars per ton of credited or  
21 reduced emissions, description of the methods and procedures to  
22 assure that the emission reductions are real, surplus, and  
23 quantifiable, the extent of the market for eligible vehicles, a  
24 recommendation for an appropriate allocation of expenditures  
25 between removal or repair of vehicles that reflects the relative  
26 cost-effectiveness of the options, and any other recommendation  
27 for improving the effectiveness of these programs. This report  
28 shall also contain all of the following:

29 (1) Identification of procedures for distinguishing the emission  
30 reductions attributed to scrapping for the purpose of generating  
31 emission reductions credits and scrapping that occurs or would  
32 have occurred as a result of the inspection and maintenance  
33 program managed by the Department of Consumer Affairs and  
34 other programs.

35 (2) A projection of the emissions reductions and  
36 cost-effectiveness that might be realized by scrapping or repairing  
37 light duty vehicles through the year 2010, considering changes  
38 expected in the vehicle fleet and likely impacts of scrapping or  
39 repair on the mix and emissions of vehicles.

~~(3) A comparison of the effectiveness of scrappage, repair, or upgrade to other programs for light-duty vehicles.~~

~~(4) A recommended scrapping program, or other more cost-effective means, for continuing to achieve the emissions reductions required by the M-1 strategy of the 1994 State Implementation Plan, considering likely emission reductions in the attainment year costs, cost-effectiveness, issues of monitoring and verification, and status of the Environmental Protection Agency's approval of the state's 1994 SIP.~~

SEC. 25. Section 57007 of the Health and Safety Code is amended to read:

57007. (a) The agency, and the offices, boards, and departments within the agency, shall institute quality government programs to achieve increased levels of environmental protection and the public's satisfaction through improving the quality, efficiency, and cost-effectiveness of the state programs that implement and enforce state and federal environmental protection statutes. These programs shall be designed to increase the level of environmental protection while expediting decisionmaking and producing cost savings. The secretary shall create an advisory group comprised of state and local government, business, environmental, and consumer representatives experienced in quality management to provide guidance in that effort. The secretary shall develop a model quality management program that local agencies charged with implementing air quality, water quality, toxics, solid waste, and hazardous waste laws and regulations may use at their discretion.

(b) The agency, and each board, department, and office within the agency, shall submit a ~~yearly~~ *biennial* report to the Governor and Legislature, *in accordance with the requirements of Chapter 4 (commencing with Section 71069) of Part 2 of the Division 34 of the Public Resources Code*, no later than December 1 with respect to the previous fiscal year, reporting on the extent to which these state agencies have attained their performance objectives, and on their continuous quality improvement efforts.

(c) Nothing in this section abrogates any collective bargaining agreement or interferes with any established employee rights.

(d) For purposes of this section, "quality government program" means all of the following:

1 (1) A process for obtaining the views of employees, the  
2 regulated community, the public, environmental organizations,  
3 and governmental officials with regard to the performance, vision,  
4 and needs of the agency implementing the quality government  
5 program.

6 (2) A process for developing measurable performance  
7 objectiveness using the views of the persons and organizations  
8 specified in paragraph (1).

9 (3) Processes for continually improving quality and for  
10 training agency personnel, using the information obtained from  
11 implementing paragraphs (1) and (2).

12 SEC. 26. Section 59019 of the Health and Safety Code is  
13 repealed.

14 ~~59019. — (a) On or before July 1, 1992, and on or before July~~  
15 ~~1 annually thereafter, the Office of Environmental Health Hazard~~  
16 ~~Assessment shall provide to the Legislature and the Public Utilities~~  
17 ~~Commission, for the purpose of Section 7672 of the Public~~  
18 ~~Utilities Code, a list of commodities, set forth by category, that~~  
19 ~~pose potential threats to the public, property, and the environment~~  
20 ~~when transported on railroad lines in the state. The office shall~~  
21 ~~develop the categories in consultation with the Office of~~  
22 ~~Emergency Services.~~

23 ~~(b) The office, in determining which commodities pose~~  
24 ~~potential threats, shall consider both the toxicity of the commodity~~  
25 ~~itself and the toxicity of any potential breakdown elements of the~~  
26 ~~commodity when exposed to air, water, or other chemical agents~~  
27 ~~that the commodity or its byproducts might contact under normal~~  
28 ~~circumstances or in the event of mishandling, accident, or other~~  
29 ~~possible event associated with, transporting the commodity on~~  
30 ~~railroad lines in the state. In developing the list pursuant to this~~  
31 ~~section, the office shall consider excluding those consumer~~  
32 ~~products that are shipped in finished packages which, due to their~~  
33 ~~packaging or quantity, are not likely to pose a hazard to the public~~  
34 ~~or environment in the event of a train derailment or other surface~~  
35 ~~accident. The list shall be used exclusively for the purposes~~  
36 ~~specified in Sections 7711 and 7712 of the Public Utilities Code.~~

37 ~~(c) The Public Utilities Commission shall provide the office~~  
38 ~~with all information about railroad operations which the office~~  
39 ~~needs to make the determination required by this section.~~

SEC. 27. Section 115910 of the Health and Safety Code is amended to read:

115910. (a) On or before the 15th day of each month, each health officer shall submit to the board a survey documenting all beach postings and closures resulting from implementation of Section 115915 that occurred during the preceding month. The survey shall, at a minimum, include the following information:

(1) Identification of the beaches in each county subject to testing conducted pursuant to Section 115885 and the amount and types of monitoring conducted at each beach.

(2) Identification of the geographic location, areal extent, and type of action taken for each incident of posting or closure conducted pursuant to Section 115915. Geographic location and areal extent shall be noted in sufficient detail to determine on a common map, or by latitude and longitude, the approximate boundaries of the affected beaches.

(3) Identification of the standards exceeded and the causes and sources of the pollution, if known. Exceeded standards shall be identified with sufficient particularity to determine which types of tests and biological indicators were used to determine that an exceeded standard exists. Causes of pollution shall be identified with sufficient particularity to determine what substances, in addition to any water carrying the substances, were responsible for the exceeded standard. Sources shall be identified with sufficient particularity to determine the most specific geographical origin of the pollution sources available to the health officer at the time of the posting or closure.

(b) Surveys conducted pursuant to subdivision (a) shall be in a specific format established by the board on or before February 1, 2001. The board shall make the format easily accessible to the health officer through means that will enable the health officer to most effectively carry out the requirements of this section and enable the board to develop consistent, statewide data concerning the effect and status of beach postings and closures in a particular calendar year.

(c) On or before the 30th day of each month, the board shall make available to the public the information provided by the health officers. Based upon the data provided pursuant to subdivision (a), the report shall, at a minimum, include the location and duration

1 of each beach closure and the suspected sources of the  
2 contamination that caused the closure, if known.

3 (d) On or before July 30 of each year, the board shall publish  
4 a statewide report documenting the beach posting and closure data  
5 provided to the board by the health officers for the preceding  
6 calendar year. Based upon the data provided pursuant to  
7 subdivision (a), the report shall, at a minimum, include the location  
8 and duration of each beach closure and the suspected sources of the  
9 contamination that caused the closure, if known.

10 (e) Within 30 days of publication of the annual report, the board  
11 shall distribute copies of the report, *in accordance with the*  
12 *requirements of Chapter 4 (commencing with Section 71069) of*  
13 *Part 2 of Division 34 of the Public Resources Code*, to the  
14 Governor, the Legislature, and major media organizations, and  
15 copies of the report shall be made available to the public by a  
16 variety of means typically available to the board.

17 SEC. 28. Section 14315 of the Penal Code is amended to read:

18 14315. Not later than 36 months after the date when this title  
19 may be implemented, as specified in Section 14314, the secretary  
20 shall submit a report to the Governor and the Legislature *in*  
21 *accordance with the requirements of Chapter 4 (commencing with*  
22 *Section 71069) of Part 2 of Division 34 of the Public Resources*  
23 *Code*, describing the operation and accomplishments of the  
24 training programs and the environmental enforcement and  
25 prosecution projects funded by this title. The commission shall  
26 prepare the section of the report pertaining to the course of  
27 instruction authorized in Section 14304 and submit it to the  
28 secretary for inclusion in the report.

29 SEC. 29. Section 42889.1 of the Public Resources Code is  
30 repealed.

31 ~~42889.1. Every two years, in conjunction with the State~~  
32 ~~Budget submitted to the Legislature pursuant to Section 12 of~~  
33 ~~Article IV of the California Constitution, the board shall submit to~~  
34 ~~the appropriate legislative policy and fiscal committees a plan that~~  
35 ~~describes the grants, loans, contracts, and other expenditures~~  
36 ~~proposed to be made by the board under the tire recycling program.~~

37 SEC. 30. Section 42889.4 of the Public Resources Code is  
38 repealed.

39 ~~42889.4. On or before January 1 of each year, the State Air~~  
40 ~~Resources Board, in conjunction with air pollution control~~



~~districts and air quality management districts, shall submit an annual report to the Governor, the Legislature, and the board summarizing the types and quantities of air emissions, if any, from facilities permitted to burn tires during the previous year.~~

SEC. 31. Section 71045 is added to the Public Resources Code, to read:

71045. (a) The California Environmental Protection Agency, using existing resources, and, in consultation with other relevant agencies in state and local government, shall do all of the following:

(1) Establish an environmental technologies clearinghouse, which shall include, but not be limited to, a database for maintaining information on California-based technology companies and information on funding sources for environmental technology endeavors and making this information available to interested parties.

(2) Make available technical assistance within the agency to assist California-based environmental technology companies to improve export opportunities, and to enhance foreign buyers' awareness of, and access to, environmental technologies and services offered by California-based companies. The technical assistance may include, but is not limited to, organizing and leading trade missions, receiving reverse trade missions, referral services, reviewing project opportunities, and notifying California-based companies of export opportunities and trade shows.

(3) Perform research studies and solicit technical advice to identify international market opportunities for California-based environmental technology companies.

(4) Participate in federal and other nonstate funded technical exchange programs, when appropriate, to increase foreign buyers' interest in California's environmental technology companies.

(5) Coordinate activities in state government, and with the federal government and foreign governments, to take advantage of trade promotion and financial assistance opportunities available to California-based environmental technology companies.

(b) The agency shall report annually, in accordance with the requirements of Chapter 4 (commencing with Section 71069) of Part 2 of this division, to the Legislature on the status of the technical assistance program established pursuant to this section

1 in the Environmental Report of the Governor, required to be  
2 prepared pursuant to Section 12805.5 of the Government Code.

3 SEC. 32. Chapter 4 (commencing with Section 71069) is  
4 added to Part 2 of Division 34 of the Public Resources Code, to  
5 read:

6  
7 CHAPTER 4. REPORT AND INFORMATION MANAGEMENT  
8

9 71069. The Legislature finds and declares the following:

10 (a) It is the policy of the state to conserve and protect its natural  
11 resources.

12 (b) Over 1,400 reports are submitted annually to the  
13 Legislature and the Governor, costing up to ten thousand dollars  
14 (\$10,000) per report for printing and distribution.

15 (c) The California Environmental Protection Agency submits  
16 over 60 reports annually to the Legislature and the Governor. The  
17 agency's boards, departments, and offices submit over 400  
18 additional reports, not including the hundreds of guidance  
19 documents, fact sheets and other printed materials produced.

20 (d) Submitting reports to the Legislature and Governor  
21 electronically, by compact disc, and posting the reports on state  
22 agency Web sites would greatly improve economic efficiency and  
23 environmental sustainability through minimized consumption of  
24 paper and printing materials, while reducing the economic and  
25 environmental costs associated with the production, distribution,  
26 and storage of printed reports.

27 (e) Access to the World Wide Web is continually expanding for  
28 the private sector and the general public. Providing reports  
29 electronically on state agency Web sites would grant greater  
30 accessibility to these reports and allow for greater sharing of  
31 knowledge and data with Californians and other information  
32 seekers. In some instances, a printed copy of a report is necessary.  
33 In those instances, economic efficiency and environmental  
34 sustainability can still be realized through various resource  
35 conservation efforts.

36 (f) Current law mandates state agencies to purchase recycled  
37 content products and materials, including printing and writing  
38 paper. There are also proven techniques and materials that are  
39 environmentally and economically preferable, and are widely  
40 available for use of all document production.



1 71070. The agency and its boards, departments, and offices  
2 shall develop and implement a strategy to provide reports and  
3 other documentation, including guidance documents, fact sheets,  
4 and other publications and written materials, in the most efficient  
5 and environmentally sustainable manner possible using various  
6 electronic data reporting techniques. This strategy shall be posted  
7 on the agency Web site.

8 71071. The agency and its boards, departments, and offices  
9 shall submit reports electronically or by compact disc that are  
10 mandated by legislation or the state budget. Printed copies shall be  
11 available for distribution; however, to encourage economic  
12 efficiency and environmental sustainability, boards, departments,  
13 and offices shall post the report or publication on the agency's Web  
14 site.

15 71072. All state agencies shall, to the extent feasible and  
16 consistent with the strategy developed pursuant to Section 71070,  
17 use techniques and materials that are economically and  
18 environmentally preferable, including, but not limited to,  
19 double-sided printing, using compact discs or other electronic  
20 media, minimizing ink coverage, using postconsumer recycled  
21 content paper, paper processed without chlorine, and paper that  
22 contains virgin fiber produced from a forest that has been certified  
23 by an accredited organization, and using inks with low  
24 concentrations of heavy metals and low emission of volatile  
25 organic compounds.

26 SEC. 33. Section 7672 of the Public Utilities Code is  
27 repealed.

28 ~~7672. For purposes of this article, "hazardous material"~~  
29 ~~means any of the following:~~

30 ~~(a) A hazardous material as defined in Section 171.8 of Title 49~~  
31 ~~of the Code of Federal Regulations.~~

32 ~~(b) A hazardous material defined in Section 25501 of the~~  
33 ~~Health and Safety Code.~~

34 ~~(c) Any commodity listed by the Office of Environmental~~  
35 ~~Health Hazard Assessment pursuant to Section 59019 of the~~  
36 ~~Health and Safety Code.~~

37 SEC. 34. Section 7711 of the Public Utilities Code is repealed.

38 ~~7711. On or before July 1, 1992, and on or before July 1~~  
39 ~~annually thereafter, the commission shall report to the Legislature~~  
40 ~~on sites on railroad lines in the state it finds to be hazardous. The~~

1 ~~report shall include, but not be limited to, information on all of the~~  
2 ~~following:~~

3 ~~(a) A list, prepared pursuant to Section 59019 of the Health and~~  
4 ~~Safety Code, of all commodities transported on railroad lines in the~~  
5 ~~state that could pose a hazard to the public or the environment in~~  
6 ~~the event of a train derailment or other accident.~~

7 ~~(b) A description of the quantities of commodities identified in~~  
8 ~~subdivision (a) that are transported on railroad lines in the state.~~  
9 ~~The commission shall also describe the locations and routes at, and~~  
10 ~~on, which the commodities specified in subdivision (a) are~~  
11 ~~transported. Railroad corporations shall provide to the~~  
12 ~~commission all information necessary to comply with this~~  
13 ~~subdivision.~~

14 ~~(c) A list of all railroad derailment accident sites in the state on~~  
15 ~~which accidents have occurred within at least the previous five~~  
16 ~~years. The list shall describe the nature and probable causes of the~~  
17 ~~accidents, if known, and shall indicate whether the accidents~~  
18 ~~occurred at or near sites that the commission, pursuant to~~  
19 ~~subdivision (d), has determined pose a local safety hazard.~~

20 ~~(d) A list of all railroad sites in the state that the commission,~~  
21 ~~pursuant to Section 20106 of Title 49 of the United States Code,~~  
22 ~~determines pose a local safety hazard. The commission may~~  
23 ~~submit in the annual report the list of railroad sites submitted in the~~  
24 ~~immediate prior year annual report, and may amend or revise that~~  
25 ~~list from the immediate prior year as necessary. Factors that the~~  
26 ~~commission shall consider in determining a local safety hazard~~  
27 ~~may include, but need not be limited to, all of the following:~~

28 ~~(1) The severity of grade and curve of track.~~

29 ~~(2) The value of special skills of train operators in negotiating~~  
30 ~~the particular segment of railroad line.~~

31 ~~(3) The value of special railroad equipment in negotiating the~~  
32 ~~particular segment of railroad line.~~

33 ~~(4) The types of commodities transported on or near the~~  
34 ~~particular segment of railroad line.~~

35 ~~(5) The hazard posed by the release of the commodity into the~~  
36 ~~environment.~~

37 ~~(6) The value of special railroad equipment in the process of~~  
38 ~~safely loading, transporting, storing, or unloading potentially~~  
39 ~~hazardous commodities.~~

1 ~~(7) The proximity of railroad activity to human activity or~~  
2 ~~sensitive environmental areas.~~

3 ~~(e) In determining which railroad sites pose a local safety~~  
4 ~~hazard pursuant to subdivision (d), the commission shall consider~~  
5 ~~the history of accidents at or near the sites. The commission shall~~  
6 ~~not limit its determination to sites at which accidents have already~~  
7 ~~occurred, but shall identify potentially hazardous sites based on~~  
8 ~~the criteria enumerated in subdivision (d) and all other criteria that~~  
9 ~~the commission determines influence railroad safety. The~~  
10 ~~commission shall also consider whether any local safety hazards~~  
11 ~~at railroad sites have been eliminated or sufficiently remediated to~~  
12 ~~warrant removal of the site from the list required under subdivision~~  
13 ~~(d).~~

14 SEC. 35. Section 7712 of the Public Utilities Code is  
15 repealed.

16 ~~7712. On or before January 1, 1993, the commission shall~~  
17 ~~adopt regulations, based on its findings and not inconsistent with~~  
18 ~~federal law. The commission may amend or revise the regulations~~  
19 ~~as necessary thereafter, to reduce the potential railroad hazards~~  
20 ~~identified in Section 7711. In adopting the regulations, the~~  
21 ~~commission shall consider at least all of the following:~~

22 ~~(a) Establishing regulations for the transporting of~~  
23 ~~commodities which the commission has listed pursuant to Section~~  
24 ~~7711. These standards shall include, but need not be limited to, all~~  
25 ~~of the following:~~

26 ~~(1) Requiring railroad operators to maintain on trains easily~~  
27 ~~accessible and identifiable information describing the chemical~~  
28 ~~composition, trade name, potential hazards, and proper emergency~~  
29 ~~response procedures for each category of hazardous commodity~~  
30 ~~specified in subdivision (a) of Section 7711 when loaded,~~  
31 ~~transported, stored, or unloaded on or from their trains.~~

32 ~~(2) Requiring railroad operators to maintain, on all trains that~~  
33 ~~carry the commodities specified in subdivision (a) of Section~~  
34 ~~7711, emergency response telephone and radio contacts for all~~  
35 ~~manufacturers of commodities listed pursuant to subdivision (a) of~~  
36 ~~Section 7711, of all local railroad emergency response agencies on~~  
37 ~~the train's route, for the Office of Emergency Services, and for all~~  
38 ~~applicable federal emergency response agencies.~~

39 ~~(3) Requiring railroad operators to post on railroad cars~~  
40 ~~containing commodities identified in subdivision (a) of Section~~

~~7711 easily identifiable placards identifying the name, type, and nature of the commodity.~~

~~(b) Establishing special railroad equipment standards for trains operated on railroad sites identified as posing a local safety hazard pursuant to subdivision (d) of Section 7711. These standards may include, but need not be limited to, standards for all of the following:~~

~~(1) Sizes, numbers, and configurations of locomotives.~~

~~(2) Brakes.~~

~~(3) Construction of train cars that carry the commodities specified in subdivision (a) of Section 7711.~~

~~(c) Establishing special train operating standards for trains operated over railroad sites identified as posing a local safety hazard pursuant to subdivision (d) of Section 7711. These standards may include, but need not be limited to, standards for all of the following:~~

~~(1) Length, weight, and weight distribution of trains.~~

~~(2) Speeds and accelerations of trains.~~

~~(3) Hours of allowable travel.~~

~~(d) Establishing special training, personnel, and performance standards for operators of trains that travel on railroad sites identified as posing a local safety hazard pursuant to subdivision (d) of Section 7711.~~

~~(e) Establishing special inspection and reporting standards for trains operated on railroad sites identified as posing a local safety hazard pursuant to subdivision (d) of Section 7711.~~

~~SEC. 36. Section 10782 of the Water Code is repealed.~~

~~10782. On or before March 1, 2003, the state board, in consultation with the other task force agencies specified in Section 10781, shall report to the Governor and the Legislature. The multiagency report shall include all of the following:~~

~~(a) A detailed description of a comprehensive groundwater quality monitoring program for California that accomplishes the goals and objectives of the act adding this part.~~

~~(b) A description of how the program takes maximum advantage of existing information and an assessment of additional monitoring necessary to support the program.~~

~~(c) A specific set of recommendations for coordinating and, as necessary, restructuring existing monitoring programs to efficiently achieve the goals of this part.~~

1 ~~(d) An estimate of funding necessary to implement the~~  
2 ~~comprehensive program and the factual basis for the estimate.~~

3 ~~(e) Recommendations with regard to an ongoing source of~~  
4 ~~funds to pay for the program.~~

5 ~~(f) A ranked list of actions that, if implemented independently,~~  
6 ~~would increase the effectiveness of monitoring efforts.~~

7 SEC. 37. Section 13191 of the Water Code is amended to read:

8 13191. ~~(a)~~ The state board shall convene an advisory group  
9 or groups to assist in the evaluation of program structure and  
10 effectiveness as it relates to the implementation of the  
11 requirements of Section 303(d) of the Clean Water Act (33 U.S.C.  
12 1313(d)), and applicable federal regulations and monitoring and  
13 assessment programs. The advisory group or groups shall be  
14 comprised of persons concerned with the requirements of Section  
15 303(d) of the Clean Water Act. The state board shall provide public  
16 notice on its website of any meetings of the advisory group or  
17 groups and, upon the request of any party shall mail notice of the  
18 time and location of any meeting of the group or groups. The board  
19 shall also ensure that the advisory group or groups meet in a  
20 manner that facilitates the effective participation of the public and  
21 the stakeholder participants.

22 ~~(b) Notwithstanding Section 7550.5 of the Government Code,~~  
23 ~~on or before November 30, 2000, and annually thereafter until~~  
24 ~~November 30, 2002, the state board shall report to the Legislature~~  
25 ~~on the structure and effectiveness of its water quality program as~~  
26 ~~it relates to Section 303(d) of the Clean Water Act. The report may~~  
27 ~~include the information required to be submitted by the board to~~  
28 ~~the United States Environmental Protection Agency pursuant to~~  
29 ~~Section 305(b) of the Clean Water Act, and any information~~  
30 ~~required to be submitted to the Legislature pursuant to the~~  
31 ~~Supplemental Report of the Budget Act of 1999. In formulating its~~  
32 ~~report, the state board shall consider any recommendations of the~~  
33 ~~advisory group or groups.~~

34 SEC. 38. Section 13192 of the Water Code is repealed.

35 ~~13192. (a) Notwithstanding Section 7550.5 of the~~  
36 ~~Government Code, the state board, on or before November 30,~~  
37 ~~2000, shall assess and report to the Legislature on the State Water~~  
38 ~~Resources Control Board's and regional water control board's~~  
39 ~~current surface water quality monitoring programs for the purpose~~  
40 ~~of designing a proposal for a comprehensive surface water quality~~



~~1 monitoring program for the state. The report shall include a  
2 proposal for the program, including steps and costs associated with  
3 developing the full program, cost of implementation of the  
4 program after development, and appropriate funding mechanisms,  
5 including any fee structure. The board may include in the report  
6 information required to be submitted to the United States  
7 Environmental Protection Agency pursuant to Section 305(b) of  
8 the Clean Water Act, information required to be submitted  
9 pursuant to paragraph (1) of subdivision (c) of Section 13181, and  
10 any information required to be submitted to the Legislature  
11 pursuant to the Supplemental Report of the Budget Act of 1999.~~

~~12 (b) In considering and designing the proposal, the state board  
13 shall address factors that include, but need not be limited to, all of  
14 the following:~~

~~15 (1) Physical, chemical, biological, and other parameters about  
16 which the program shall collect and evaluate data and other  
17 information and the reasonable means to ensure that the data is  
18 accurate in determining ambient water quality.~~

~~19 (2) The use of models and other forms of information not  
20 directly measuring water quality.~~

~~21 (3) Reasonable quality assurance and quality control protocols  
22 sufficient to allow sound management while allowing and  
23 encouraging, where appropriate, data collection by entities  
24 including citizens and other stakeholders, such as dischargers.~~

~~25 (4) A strategy to expeditiously develop information about  
26 waters concerning which the state presently possesses little or no  
27 information.~~

~~28 (5) A strategy for assuring that data collected as part of  
29 monitoring programs, and any associated quality assurance  
30 elements associated with the data collection, be made readily  
31 available to the public.~~

~~32 (6) A strategy for assessing and characterizing discharges from  
33 nonpoint sources of pollution and natural background sources.~~

~~34 (7) A strategy to prioritize and allocate resources in order to  
35 effectively meet water quality monitoring goals.~~

~~36 (c) Nothing in this section affects the authority of the regional  
37 water quality control boards.~~

~~38 SEC. 39. Section 13198 of the Water Code is repealed.~~

~~39 13198. (a) On or before January 1, 2003, based upon an  
40 evaluation of the statewide underground storage tank electronic~~

~~report submission project conducted pursuant to Section 13197.5, the state board shall report to the Legislature and the Governor on the feasibility and appropriateness of extending the electronic report submission project to all state board programs.~~

~~(b) Before July 1, 2003, no state agency may require the electronic submission of any soil or water chemistry analysis by a laboratory certified or accredited pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 of the Health and Safety Code in an electronic format other than the electronic format specified by the state board pursuant to this article.~~

~~(c) Notwithstanding any other provision of this article, the state board may require the electronic submission of reports for programs, other than programs described in subdivision (a) of Section 13197.5, in a format approved by the state board.~~

SEC. 40. Section 13292 of the Water Code is amended to read:

13292. (a) It is the responsibility of the state board to provide guidance to the regional boards in matters of procedure, as well as policy and regulation. In order to ensure that regional boards are providing fair, timely, and equal access to all participants in regional board proceedings, the state board shall undertake a review of the regional boards' public participation procedures. As part of the review process, and upon request by the state board, the regional boards shall solicit comments from participants in their proceedings. Upon completion of the review, the state board shall report to the Legislature, *in accordance with the requirements of Chapter 4 (commencing with 71069) of Part 2 of Division 34 of the Public Resources Code*, regarding its findings and include recommendations to improve regional board public participation processes. ~~The state board shall make copies of the comments it received available upon request.~~

~~(b) (1) Commencing July 1, 2003, the~~ The state board shall provide annual training to regional board members to improve public participation procedures at the regional level.

(2) Paragraph (1) shall be implemented only during fiscal years for which funding is provided for the purposes of that paragraph in the annual Budget Act or in another statute.

SEC. 41. Section 13369 of the Water Code is amended to read:

13369. (a) (1) ~~On or before February 1, 2001, the~~ The state board, in consultation with the regional boards, the California

1 Coastal Commission, and other appropriate state agencies and  
2 advisory groups, as necessary, shall prepare a detailed program for  
3 the purpose of implementing the state's nonpoint source  
4 management plan. The board shall address all applicable  
5 provisions of the Clean Water Act, including Section 319 (33  
6 U.S.C. Sec. 1329), as well as Section 6217 of the federal Coastal  
7 Zone Act Reauthorization Amendments of 1990 (16 U.S.C. Sec.  
8 1455b), and this division in the preparation of this detailed  
9 implementation program.

10 (2) (A) The program shall include all of the following  
11 components:

12 (i) Nonregulatory implementation of best management  
13 practices.

14 (ii) Regulatory-based incentives for best management  
15 practices.

16 (iii) The adoption and enforcement of waste discharge  
17 requirements that will require the implementation of best  
18 management practices.

19 (B) In connection with its duties under this subdivision to  
20 prepare and implement the state's nonpoint source management  
21 plan, the state board shall develop, on or before February 1, 2001,  
22 guidance to be used by the state board and the regional boards for  
23 the purpose of describing the process by which the state board and  
24 the regional boards will enforce the state's nonpoint source  
25 management plan, pursuant to this division.

26 (C) The adoption of the guidance developed pursuant to this  
27 section is not subject to Chapter 3.5 (commencing with Section  
28 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

29 (b) Notwithstanding Section 7550.5 of the Government Code,  
30 and in consultation with the California Coastal Commission and  
31 other appropriate agencies, as necessary, the state board, on or  
32 before ~~August 1~~ *December 31* of each year, shall submit to the  
33 Legislature, and make available to the public, *in accordance with*  
34 *the requirements of Chapter 4 (commencing with Section 71069)*  
35 *of Part 2 of Division 34 of the Public Resources Code*, both of the  
36 following:

37 (1) Copies of all state and regional board reports that contain  
38 information related to nonpoint source pollution and that the state  
39 or regional boards were required to prepare in the previous fiscal  
40 year pursuant to Sections 303, 305(b), and 319 of the Clean Water

Act (33 U.S.C. Secs. 1313, 1315(b), and 1329), Section 6217 of the federal Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. Sec. 1455b), related regulations, and this division.

(2) A summary of information related to nonpoint source pollution that is set forth in the reports described pursuant to paragraph (1) including, but not limited to, summaries of both of the following:

(A) Information that is related to nonpoint source pollution and that is required to be included in reports prepared pursuant to Section 305(b) of the Clean Water Act (33 U.S.C. 1315(b)).

(B) Information that is required to be in reports prepared pursuant to Section 319(h)(11) of the Clean Water Act (33 U.S.C. Sec. 1329(h)(11)).

SEC. 42. Section 13385 of the Water Code is amended to read: 13385. (a) Any person who violates any of the following shall be liable civilly in accordance with this section:

(1) Section 13375 or 13376.

(2) Any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.

(3) Any requirements established pursuant to Section 13383.

(4) Any order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(5) Any requirements of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act, as amended.

(6) Any requirement imposed in a pretreatment program approved pursuant to waste discharge requirements issued under Section 13377 or approved pursuant to a permit issued by the administrator.

(b) Civil liability may be imposed by the superior court in an amount not to exceed the sum of both of the following:

(1) Twenty-five thousand dollars (\$25,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed twenty-five dollars (\$25) multiplied by the

1 number of gallons by which the volume discharged but not cleaned  
2 up exceeds 1,000 gallons.

3 The Attorney General, upon request of a regional board or the  
4 state board, shall petition the superior court to impose the liability.

5 (c) Civil liability may be imposed administratively by the state  
6 board or a regional board pursuant to Article 2.5 (commencing  
7 with Section 13323) of Chapter 5 in an amount not to exceed the  
8 sum of both of the following:

9 (1) Ten thousand dollars (\$10,000) for each day in which the  
10 violation occurs.

11 (2) Where there is a discharge, any portion of which is not  
12 susceptible to cleanup or is not cleaned up, and the volume  
13 discharged but not cleaned up exceeds 1,000 gallons, an additional  
14 liability not to exceed ten dollars (\$10) multiplied by the number  
15 of gallons by which the volume discharged but not cleaned up  
16 exceeds 1,000 gallons.

17 (d) For purposes of subdivisions (b) and (c), the term  
18 “discharge” includes any discharge to navigable waters of the  
19 United States, any introduction of pollutants into a publicly owned  
20 treatment works, or any use or disposal of sewage sludge.

21 (e) In determining the amount of any liability imposed under  
22 this section, the regional board, the state board, or the superior  
23 court, as the case may be, shall take into account the nature,  
24 circumstances, extent, and gravity of the violation or violations,  
25 whether the discharge is susceptible to cleanup or abatement, the  
26 degree of toxicity of the discharge, and, with respect to the  
27 violator, the ability to pay, the effect on its ability to continue its  
28 business, any voluntary cleanup efforts undertaken, any prior  
29 history of violations, the degree of culpability, economic benefit  
30 or savings, if any, resulting from the violation, and other matters  
31 that justice may require. At a minimum, liability shall be assessed  
32 at a level that recovers the economic benefits, if any, derived from  
33 the acts that constitute the violation.

34 (f) (1) Except as provided in paragraph (2), for the purposes of  
35 this section, a single operational upset that leads to simultaneous  
36 violations of more than one pollutant parameter shall be treated as  
37 a single violation.

38 (2) (A) For the purposes of subdivisions (h) and (i), a single  
39 operational upset in a wastewater treatment unit that treats  
40 wastewater using a biological treatment process shall be treated as



a single violation, even if the operational upset results in violations of more than one effluent limitation and the violations continue for a period of more than one day, if all of the following apply:

(i) The discharger demonstrates all of the following:

(I) The upset was not caused by wastewater treatment operator error and was not due to discharger negligence.

(II) But for the operational upset of the biological treatment process, the violations would not have occurred nor would they have continued for more than one day.

(III) The discharger carried out all reasonable and immediately feasible actions to reduce noncompliance with the applicable effluent limitations.

(ii) The discharger is implementing an approved pretreatment program, if so required by federal or state law.

(B) Subparagraph (A) only applies to violations that occur during a period for which the regional board has determined that violations are unavoidable, but in no case may that period exceed 30 days.

(g) Remedies under this section are in addition to, and do not supersede or limit, any other remedies, civil or criminal, except that no liability shall be recoverable under Section 13261, 13265, 13268, or 13350 for violations for which liability is recovered under this section.

(h) (1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation.

(2) For the purposes of this section, a “serious violation” means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

(i) (1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive

1 months, except that the requirement to assess the mandatory  
2 minimum penalty shall not be applicable to the first three  
3 violations:

4 (A) Violates a waste discharge requirement effluent limitation.

5 (B) Fails to file a report pursuant to Section 13260.

6 (C) Files an incomplete report pursuant to Section 13260.

7 (D) Violates a toxicity effluent limitation contained in the  
8 applicable waste discharge requirements where the waste  
9 discharge requirements do not contain pollutant-specific effluent  
10 limitations for toxic pollutants.

11 (2) For the purposes of this section, a “period of six  
12 consecutive months” means the period commencing on the date  
13 that one of the violations described in this subdivision occurs and  
14 ending 180 days after that date.

15 (j) Subdivisions (h) and (i) do not apply to any of the following:

16 (1) A violation caused by one or any combination of the  
17 following:

18 (A) An act of war.

19 (B) An unanticipated, grave natural disaster or other natural  
20 phenomenon of an exceptional, inevitable, and irresistible  
21 character, the effects of which could not have been prevented or  
22 avoided by the exercise of due care or foresight.

23 (C) An intentional act of a third party, the effects of which  
24 could not have been prevented or avoided by the exercise of due  
25 care or foresight.

26 (D) (i) The operation of a new or reconstructed wastewater  
27 treatment unit during a defined period of adjusting or testing, not  
28 to exceed 90 days for a wastewater treatment unit that relies on a  
29 biological treatment process and not to exceed 30 days for any  
30 other wastewater treatment unit, if all of the following  
31 requirements are met:

32 (I) The discharger has submitted to the regional board, at least  
33 30 days in advance of the operation, an operations plan that  
34 describes the actions the discharger will take during the period of  
35 adjusting and testing, including steps to prevent violations and  
36 identifies the shortest reasonable time required for the period of  
37 adjusting and testing, not to exceed 90 days for a wastewater  
38 treatment unit that relies on a biological treatment process and not  
39 to exceed 30 days for any other wastewater treatment unit.





1 (II) The regional board has not objected in writing to the  
2 operations plan.

3 (III) The discharger demonstrates that the violations resulted  
4 from the operation of the new or reconstructed wastewater  
5 treatment unit and that the violations could not have reasonably  
6 been avoided.

7 (IV) The discharger demonstrates compliance with the  
8 operations plan.

9 (V) In the case of a reconstructed wastewater treatment unit,  
10 the unit relies on a biological treatment process that is required to  
11 be out of operation for at least 14 days in order to perform the  
12 reconstruction, or the unit is required to be out of operation for at  
13 least 14 days and, at the time of the reconstruction, the cost of  
14 reconstructing the unit exceeds 50 percent of the cost of replacing  
15 the wastewater treatment unit.

16 (ii) For the purposes of this section, “wastewater treatment  
17 unit” means a component of a wastewater treatment plant that  
18 performs a designated treatment function.

19 (2) (A) Except as provided in subparagraph (B), a violation of  
20 an effluent limitation where the waste discharge is in compliance  
21 with either a cease and desist order issued pursuant to Section  
22 13301 or a time schedule order issued pursuant to Section 13300,  
23 if all of the following requirements are met:

24 (i) The cease and desist order or time schedule order is issued  
25 after January 1, 1995, but not later than July 1, 2000, specifies the  
26 actions that the discharger is required to take in order to correct the  
27 violations that would otherwise be subject to subdivisions (h) and  
28 (i), and the date by which compliance is required to be achieved  
29 and, if the final date by which compliance is required to be  
30 achieved is later than one year from the effective date of the cease  
31 and desist order or time schedule order, specifies the interim  
32 requirements by which progress towards compliance will be  
33 measured and the date by which the discharger will be in  
34 compliance with each interim requirement.

35 (ii) The discharger has prepared and is implementing in a  
36 timely and proper manner, or is required by the regional board to  
37 prepare and implement, a pollution prevention plan that meets the  
38 requirements of Section 13263.3.

39 (iii) The discharger demonstrates that it has carried out all  
40 reasonable and immediately feasible actions to reduce

1 noncompliance with the waste discharge requirements applicable  
2 to the waste discharge and the executive officer of the regional  
3 board concurs with the demonstration.

4 (B) Subdivisions (h) and (i) shall become applicable to a waste  
5 discharge on the date the waste discharge requirements applicable  
6 to the waste discharge are revised and reissued pursuant to Section  
7 13380, unless the regional board does all of the following on or  
8 before that date:

9 (i) Modifies the requirements of the cease and desist order or  
10 time schedule order as may be necessary to make it fully consistent  
11 with the reissued waste discharge requirements.

12 (ii) Establishes in the modified cease and desist order or time  
13 schedule order a date by which full compliance with the reissued  
14 waste discharge requirements shall be achieved. For the purposes  
15 of this subdivision, the regional board may not establish this date  
16 later than five years from the date the waste discharge  
17 requirements were required to be reviewed pursuant to Section  
18 13380. If the reissued waste discharge requirements do not add  
19 new effluent limitations or do not include effluent limitations that  
20 are more stringent than those in the original waste discharge  
21 requirements, the date shall be the same as the final date for  
22 compliance in the original cease and desist order or time schedule  
23 order or five years from the date that the waste discharge  
24 requirements were required to be reviewed pursuant to Section  
25 13380, whichever is earlier.

26 (iii) Determines that the pollution prevention plan required by  
27 clause (ii) of subparagraph (A) is in compliance with the  
28 requirements of Section 13263.3 and that the discharger is  
29 implementing the pollution prevention plan in a timely and proper  
30 manner.

31 (3) A violation of an effluent limitation where the waste  
32 discharge is in compliance with either a cease and desist order  
33 issued pursuant to Section 13301 or a time schedule order issued  
34 pursuant to Section 13300 or Section 13308, if all of the following  
35 requirements are met:

36 (A) The cease and desist order or time schedule order is issued  
37 on or after July 1, 2000, and specifies the actions that the  
38 discharger is required to take in order to correct the violations that  
39 would otherwise be subject to subdivisions (h) and (i).



1 (B) The regional board finds that, for one of the following  
2 reasons, the discharger is not able to consistently comply with one  
3 or more of the effluent limitations established in the waste  
4 discharge requirements applicable to the waste discharge:

5 (i) The effluent limitation is a new, more stringent, or modified  
6 regulatory requirement that has become applicable to the waste  
7 discharge after the effective date of the waste discharge  
8 requirements and after July 1, 2000, new or modified control  
9 measures are necessary in order to comply with the effluent  
10 limitation, and the new or modified control measures cannot be  
11 designed, installed, and put into operation within 30 calendar days.

12 (ii) New methods for detecting or measuring a pollutant in the  
13 waste discharge demonstrate that new or modified control  
14 measures are necessary in order to comply with the effluent  
15 limitation and the new or modified control measures cannot be  
16 designed, installed, and put into operation within 30 calendar days.

17 (iii) Unanticipated changes in the quality of the municipal or  
18 industrial water supply available to the discharger are the cause of  
19 unavoidable changes in the composition of the waste discharge,  
20 the changes in the composition of the waste discharge are the cause  
21 of the inability to comply with the effluent limitation, no  
22 alternative water supply is reasonably available to the discharger,  
23 and new or modified measures to control the composition of the  
24 waste discharge cannot be designed, installed, and put into  
25 operation within 30 calendar days.

26 (iv) The discharger is a publicly owned treatment works  
27 located in Orange County that is unable to meet effluent  
28 limitations for biological oxygen demand, suspended solids, or  
29 both, because the publicly owned treatment works meets all of the  
30 following criteria:

31 (I) Was previously operating under modified secondary  
32 treatment requirements pursuant to Section 301(h) of the Clean  
33 Water Act (33 U.S.C. Sec. 1311(h)).

34 (II) Did vote on July 17, 2002, not to apply for a renewal of the  
35 modified secondary treatment requirements.

36 (III) Is in the process of upgrading its treatment facilities to  
37 meet the secondary treatment standards required by Section  
38 301(b)(1)(B) of the Clean Water Act (33 U.S.C. Sec.  
39 1311(b)(1)(B)).

(C) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. For the purposes of this subdivision, the time schedule may not exceed five years in length, except that the time schedule may not exceed 10 years in length for the upgrade described in subparagraph (B)(iv)(III). If the time schedule exceeds one year from the effective date of the order, the schedule shall include interim requirements and the dates for their achievement. The interim requirements shall include both of the following:

(i) Effluent limitations for the pollutant or pollutants of concern.

(ii) Actions and milestones leading to compliance with the effluent limitation.

(D) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan pursuant to Section 13263.3.

(k) In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a POTW serving a small community, as defined by subdivision (b) of Section 79084, the state board or the regional board may elect to require the POTW to spend an equivalent amount towards the completion of a compliance project proposed by the POTW, if the state or regional board finds all of the following:

(1) The compliance project is designed to correct the violations within five years.

(2) The compliance project is in accordance with the enforcement policy of the state board.

(3) The POTW has demonstrated that it has sufficient funding to complete the compliance project.

(l) (1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the state board or regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of

1 the penalty amount that may be directed to be expended on a  
2 supplemental environmental project may not exceed fifteen  
3 thousand dollars (\$15,000) plus 50 percent of the penalty amount  
4 that exceeds fifteen thousand dollars (\$15,000).

5 (2) For the purposes of this section, a “supplemental  
6 environmental project” means an environmentally beneficial  
7 project that a person agrees to undertake, with the approval of the  
8 regional board, that would not be undertaken in the absence of an  
9 enforcement action under this section.

10 (3) This subdivision applies to the imposition of penalties  
11 pursuant to subdivision (h) or (i) on or after January 1, 2003,  
12 without regard to the date on which the violation occurs.

13 (m) The Attorney General, upon request of a regional board or  
14 the state board, shall petition the appropriate court to collect any  
15 liability or penalty imposed pursuant to this section. Any person  
16 who fails to pay on a timely basis any liability or penalty imposed  
17 under this section shall be required to pay, in addition to that  
18 liability or penalty, interest, attorneys’ fees, costs for collection  
19 proceedings, and a quarterly nonpayment penalty for each quarter  
20 during which the failure to pay persists. The nonpayment penalty  
21 shall be in an amount equal to 20 percent of the aggregate amount  
22 of the person’s penalty and nonpayment penalties that are unpaid  
23 as of the beginning of the quarter.

24 (n) (1) Subject to paragraph (2), funds collected pursuant to  
25 this section shall be deposited in the State Water Pollution Cleanup  
26 and Abatement Account.

27 (2) (A) Notwithstanding any other provision of law, moneys  
28 collected for a violation of a water quality certification in  
29 accordance with paragraph (2) of subdivision (a) or for a violation  
30 of Section 401 of the Clean Water Act (33 U.S.C. Sec. 1341) in  
31 accordance with paragraph (5) of subdivision (a) shall be  
32 deposited in the Waste Discharge Permit Fund and separately  
33 accounted for in that fund.

34 (B) The funds described in subparagraph (A) shall be expended  
35 by the state board, upon appropriation by the Legislature, to assist  
36 regional boards, and other public agencies with authority to clean  
37 up waste or abate the effects of the waste, in cleaning up or abating  
38 the effects of the waste on waters of the state or for the purposes  
39 authorized in Section 13443.

(o) (1) The state board shall report annually to the Legislature *in accordance with the requirements of Chapter 4 (commencing with Section 71069) of Part 2 of Division 34 of the Public Resources Code*, regarding its enforcement activities. The reports shall include all of the following:

(A) A compilation of the number of violations of waste discharge requirements in the previous year.

(B) A record of the formal and informal compliance and enforcement actions taken for each violation.

(C) An analysis of the effectiveness of current enforcement policies, including mandatory minimum penalties.

(D) Recommendations, if any, necessary for improvements to the enforcement program in the following year.

(2) The report shall be submitted to the Chairperson of the Assembly Committee on Environmental Safety and Toxic Materials and the Chairperson of the Senate Committee on Environmental Quality *in accordance with the requirements of Chapter 4 (commencing with Section 71069) of Part 2 of Division 34 of the Public Resources Code*, on or before March 1, 2001, and annually, *on or before May 1*, thereafter.

(p) The amendments made to subdivisions (f), (h), (i) and (j) during the second year of the 2001–02 Regular Session apply only to violations that occur on or after January 1, 2003.

SEC. 43. Section 13399.39 of the Water Code is amended to read:

13399.39. On or before May 1, 2000, and on each May 1 thereafter, the state board shall prepare and submit a report to the Legislature, *in accordance with the requirements of Chapter 4 (commencing with Section 71069) of Part 2 of Division 34 of the Public Resources Code*, summarizing the enforcement actions undertaken in the previous calendar year under this division with regard to storm water discharge and the results of those actions. The report shall include an assessment with regard to the extent of compliance with requirements relating to the discharge of storm water in this state.